HOUSE RULE XLVIII

HEARING

BEFORE THE

SUBCOMMITTEE ON RULES OF THE HOUSE

OF THE

COMMITTEE ON RULES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

OVERSIGHT OF HOUSE RULE XLVIII
PERMANENT SELECT COMMITTEE ON INTELLIGENCE

JUNE 27, 1990

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CONTENTS

	Page
Opening statement of Hon. John Joseph Moakley, chairman of the Subcommittee on Rules of the House	1
Opening statement of Hon. Gerald B.H. Solomon, ranking minority member of the Subcommittee on Rules of the House	2
Statement of:	
Beilenson, Hon. Anthony C., chairman of the Permanent Select Committee on Intelligence	24
Dornan, Hon. Robert K., a Representative in Congress from the State of California (prepared statement p. 84)	80
Fein, Bruce, attorney and consultant on National Security Affairs (prepared statement p. 117)	108
Hamilton, Hon. Lee H., former chairman of the Permanent Select Committee on Intelligence (prepared statement p. 36)	32
Hyde, Hon. Henry J., ranking minority member of the Permanent Select Committee on Intelligence (prepared statement p. 53)	49
Oberstar, Hon. James L., a Representative in Congress from the State of Minnesota (prepared statement p. 48)	47
Pease, Philip, Director of Security, National Security Agency	101
Solomon, Hon. Gerald B.H., ranking minority member, Subcommittee on Rules of the House (prepared statement p. 71)	69
Stokes, Hon. Louis, former chairman of the Permanent Select Committee on Intelligence	27
Stoops, Gary L., Inspector, Deputy Assistant Director, Records Management Division, Federal Bureau of Investigation	103
Statements submitted for the record:	
Boland, Hon. Edward P., former chairman of the Permanent Select Committee on Intelligence	21
Green, Caryl Lynn, legislative staff officer, National Security Agency, Legislative Affairs	108
Additional material submitted for the record:	
Briefing memorandum regarding oversight hearing by the Subcommittee on Rules of the House on Rule XLVIII, the Permanent Select Committee on Intelligence	4
Letters submitted by Hon. Henry J. Hyde from former CIA Directors Richard Helms, Stansfield Turner, and William Colby:	
Letter dated March 24, 1987 to Mr. Hyde from Richard Helms regarding H.R. 1013	61
Letter dated January 27, 1986 to Mr. Hyde from Stansfield Turner telling his views on proposed joint resolution to establish a joint committee on intelligence	63
Letter dated July 12, 1990 to Mr. Hyde from William Colby supporting consolidate of the separate Senate and House committees for oversight of the Nation's intelligence activities into one joint committee	64
Articles submitted by Hon. Gerald Solomon:	
Letter dated February 3, 1987, to Hon. Louis Stokes, chairman of the House Permanent Select Committee on Intelligence regarding a resolution that would establish a House of Representatives classified information security office	74
Letter dated February 18, 1987, from Hon. Louis Stokes, in response to letter dated February 3, 1987	75
Article from the Roll Call newspaper dated March 16, 1987, titled, "Congress Seeks Way To Plug Leaks"	76

Additional material submitted for the record—Continued
Articles submitted by Hon. Gerald Solomon—Continued
Page
Letter dated November 1, 1989, from Jack Russ, Sergeant at Arms, regarding legislation to establish an office to assist Members with security clearance in handling classified material 77
Memorandum dated September 25, 1989, to office security managers from the Office of Senate Security regarding Jan Fejgl, First Secretary, Embassy of Czechoslovakia 78
Article from the Washington Times newspaper dated July 4, 1989 titled, "Ousted Czechoslovak envoy was caught in act of espionage" 79
Articles submitted by Hon. Robert K. Dornan of California:
Charts titled, "Technical Security Division, Fiscal 1989–1990" 86
Article: DOD 5200.1–R, "Chapter X, Security Education" 88
Article: DOD 5220.22–M, "Appendix VII. Guidance for Preparation of Security Briefings" 91

HOUSE RULE XLVIII, THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

WEDNESDAY, JUNE 27, 1990

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RULES OF THE HOUSE,
COMMITTEE ON RULES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room H-313, the Capitol, Hon. John Joseph Moakley (chairman of the subcommittee) presiding.

Present: Representatives Moakley, Beilenson, Slaughter, Solomon, and Pashayan.

OPENING STATEMENT OF HON. JOHN JOSEPH MOAKLEY, CHAIRMAN OF THE SUBCOMMITTEE ON RULES OF THE HOUSE

Mr. MOAKLEY. Today the Subcommittee on Rules holds an oversight hearing and will hear testimony from Members of the House and public witnesses on House Rule XLVIII, which created the House Permanent Select Committee on Intelligence.

This select committee, currently chaired in the 101st Congress by our colleague, the Honorable Anthony C. Beilenson of California, with the Honorable Henry Hyde of Illinois as ranking minority member, is responsible for legislation and oversight over the most sensitive and secret areas of policy facing the Congress.

This is the only select committee in the House of Representatives with the authority to report legislation to the House.

The House Permanent Select Committee on Intelligence has a rotating membership, and Members serving on it are limited to a total of 6 years of service.

This limitation was placed in Rule XLVIII for two reasons. First, to ensure that a variety of Members gained exposure over time to the complex universe of intelligence issues. And second, to minimize the risks of development of an excessively close relationship between the select committee and the executive branch intelligence agencies, which might diminish its aggressiveness in oversight.

The Speaker of the House and the Minority Leader of the House have taken great care over the years to appoint capable Members who understand the unusual demands of service on the Permanent Select Committee on Intelligence. Membership on the select committee is considered extremely prestigious, and many Members of the House request assignment to the handful of seats which are open in each Congress.

The chairman and ranking minority member of the select committee are also members of the so-called "Gang of Eight," with whom the President must confer on the most sensitive issues relating to covert operations.

Several issues related to the structure of the Permanent Select Committee on Intelligence and the treatment of classified information by the House will be discussed by witnesses before us today.

This hearing will exercise the subcommittee's oversight responsibilities under the rules of the House to periodically review matters under its jurisdiction.

We expect to hear testimony about possible changes in the length of the 6-year rotation rule. A number of Members favor abolishing our House select committee, and its Senate counterpart, in favor of having a joint committee of the two Chambers with a reduced membership. There are also proposals to create an office in the House of Representatives to develop procedures for more effective handling of classified information and documents, to require staff members to have regular security briefings, and to require Members of the select committee to submit to background investigations and to take an oath of secrecy before they can see classified information in the possession of the Intelligence Committee.

Since all of these issues involve changes of some sort in Rule XLVIII or in other rules of the House, the various joint resolutions and resolutions relating to them were referred to the Committee on Rules and then to this subcommittee.

The subcommittee would be very happy to hear from our colleague and dear friend, the chairman of the Intelligence Committee, Mr. Beilenson.

Mr. BEILENSON. I wasn't planning to say anything at this point. I thought perhaps you would go on to our panel of witnesses, unless Mr. Solomon has something to say.

It might be helpful perhaps if I joined my two fellow chairmen down there when they speak.

Mr. MOAKLEY. Okay.

Then let's have the panel of witnesses, including Chairman Beilenson, the Honorable Lee Hamilton, former chairman of the Permanent Select Committee on Intelligence, and the Honorable Louis Stokes, former chairman, Permanent Select Committee on Intelligence.

Does the ranking minority member of the subcommittee, Mr. Solomon, have an opening statement?

OPENING STATEMENT OF HON. GERALD B.H. SOLOMON, RANKING MINORITY MEMBER OF THE SUBCOMMITTEE ON RULES OF THE HOUSE

Mr. SOLOMON. Mr. Chairman, first of all, I won't take much time. We have a full schedule of witnesses today. We have a lot of serious action on the floor as well.

Suffice it to say, I really do appreciate your willingness and the willingness of Tony Beilenson, as well, to follow through on the commitments made last year concerning this hearing.

I thank both of you.

When we considered the resolution last fall which granted the Speaker access to the information and proceedings of the Permanent Select Committee on Intelligence, Henry Hyde and myself, among others, made the point that a number of incremental changes had been made at the select committee over the past several years and we suggested that the time had come to step back and consider what all those changes really mean.

A number of significant bills have been introduced on this subject. I am glad that we have the opportunity today to examine those bills and to hear testimony on them.

Mr. Chairman, the Nation's capability for keeping its secrets is inextricably related to its capacity to defend itself. The World has seen momentous changes in recent months, but it remains a dangerous place.

America certainly does retain vital national interests throughout the globe that we must protect. The need for protection of the Nation's secrets will always be terribly important, and I hope that this hearing today and the subsequent followup activity will contribute to that purpose.

I thank the chairman for holding the hearing.

Mr. MOAKLEY. Without objection, the subcommittee briefing memorandum which was distributed to all members of the subcommittee will be included in the record at this point.

I would also like to get unanimous consent to have a statement from another former chairman, the Honorable Edward Boland, placed in the record. [See p. 21.]

[The information referred to follows:]

ONE HUNDRED FIRST CONGRESS

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June 25, 1990

BRIEFING MEMORANDUM

To: **MEMBERS, SUBCOMMITTEE ON RULES OF THE HOUSE**

Re: **OVERSIGHT HEARING BY THE SUBCOMMITTEE ON RULES OF THE HOUSE ON RULE XLVIII, THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE**

The Subcommittee on Rules of the House will hold an oversight hearing on House Rule XLVIII (48), the Permanent Select Committee on Intelligence, on Wednesday, June 27 at 2:00 P.M.

A variety of widely divergent legislative proposals have been introduced and referred to the subcommittee in the 101st Congress, and each is summarized in this memorandum.

BACKGROUND: CREATION OF CURRENT INTELLIGENCE PANELS

Prior to the mid-1970's, both the House and Senate conducted legislating and oversight related to intelligence activities through senior Members on the Armed Services and Appropriations Committees who chaired subcommittees on intelligence of each of those panels. This practice led to criticism that a handful of Members had established excessively close relationships with intelligence agencies and were unable or unwilling to exercise effective congressional controls.

On January 27, 1975, the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Agencies was established, chaired by Sen. Frank Church, to investigate the conduct of intelligence agencies. Its report led to the creation the following year of the Senate Select Committee on Intelligence, a permanent panel with rotating membership and with an eight-year term limitation.

On February 19, 1975, the House created a temporary Select Committee on Intelligence chaired by Rep. Lucien Nedzi, to examine intelligence gathering practices in the government. Nedzi also chaired the House Armed Services Special Subcommittee on Intelligence. But this select committee was riven with internal dissension and could not function effectively. On July 17, 1975, the House abolished it and immediately recreated it, but with slightly different membership and chaired by Rep. Otis Pike.

Subsequently, the House established the Permanent Select Committee on Intelligence in 1977 as Rule XLVIII of the rules of the House (95th Congress, H. Res. 658, July 14, 1977). It is a panel with a rotating membership limited to six consecutive years of service.

STRUCTURE OF THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The House Permanent Select Committee on Intelligence, unlike most other House select committees, is created as part of the rules of the House at the beginning of a new Congress. It is the only select committee with legislative jurisdiction. The other permanent select committee in the House rules, Aging, may not report legislation.

The size of the Permanent Select Committee on Intelligence is specified in Rule XLVIII. It was originally 13, but has been amended four times since 1977 and is currently set at a maximum of 19. The Majority Leader and Minority Leader also serve as permanent ex officio Members without vote under the rule. All voting Members are appointed by the Speaker and are eligible to serve for six consecutive years from the date of their initial appointment, assuming they are reappointed in subsequent Congresses.

The Permanent Select Committee has had four chairman, former Rep. Edward P. Boland (1977-85), Reps. Lee Hamilton (1985-87), Louis Stokes (1987-89) and Anthony C. Beilenson (1989--). Chairman Beilenson's eligibility to serve on the select committee will expire on January 3, 1991.

Rep. Boland was the select committee's first chairman. A provision in Rule XLVIII exempted his service and that of other committee Members during the 95th Congress from the six-year service rule. (This obsolete provision still remains in the rule more than five years after the departure from the select committee of the Members it affected.)

Rep. Boland continued to serve in the 96th, 97th and 98th Congresses as chairman for a total service of more than 7 and one-half years, longer than any other Member except the select committee's first ranking minority member, J. Kenneth Robinson, who served an identical length of time. Each of Rep. Boland's three successors were appointed during his last term of service on the select committee, limiting his period of committee leadership to two years.

Whenever the chairman has rotated off, the Speaker has followed the custom of seniority and has chosen as successor the next-ranking Member with the longest continuous service on the select committee who is eligible to stay on the panel.

The ranking minority Members of the permanent select committee have been former Rep. J. Kenneth Robinson (1977-85), Reps. Bob Stump (1985-87) and Henry Hyde (1987-). Rep. Hyde's eligibility to serve will expire on January 3, 1991.

CURRENT MEMBERS OF SELECT COMMITTEE AND EXPIRATION OF TERMS

DEMOCRATS

ANTHONY C. BEILENSON, chairman	January 3, 1991
DAVE McCURDY	January 3, 1995
ROBERT W. KASTENMEIER	January 3, 1991
ROBERT A. ROE	January 3, 1991
MATTHEW F. McHUGH	January 3, 1991
BERNARD J. DWYER	January 3, 1991
CHARLES WILSON	January 3, 1993
BARBARA B. KENNELLY	January 3, 1993
DAN GLICKMAN	November 18, 1993
NICHOLAS MAVROULES	February 1, 1994
BILL RICHARDSON	February 1, 1994
STEPHEN J.SOLARZ	January 3, 1995
RICHARD A. GEPHARDT, ex officio	

REPUBLICANS

HENRY J. HYDE, ranking minority member	January 3, 1991
BOB LIVINGSTON	January 3, 1991
BUD SHUSTER	January 3, 1993
LARRY COMBEST	January 3, 1995
DOUG BEREUTER	January 3, 1995
JOHN G. ROWLAND	January 3, 1995
ROBERT K. DORNAN	April 10, 1995
ROBERT H. MICHEL, ex officio	

SUMMARY OF HOUSE RULE XLVIII

Rule XLVIII was adopted on July 14, 1977 (H. Res. 658 of the 95th Congress), and created the Permanent Select Committee on Intelligence as a permanent part of the rules of the House of Representatives in Rule XLVIII. When the House adopts its rules at the beginning of each new Congress (H. Res. 5), it automatically recreates the select committee along with the 22 standing committees contained in clause 1 of Rule X and the Permanent Select Committee on Aging in clause 6 of Rule X.

As with all select committees, all of the Members of the Permanent Select Committee on Intelligence are appointed by the Speaker, who also designates the chairman. The Speaker also designates the rank order of seniority of Members of the majority. The Speaker appoints the minority members upon the recommendation of the Minority Leader, including a designation of the ranking minority member.

There are currently "not more than 19 Members" permitted by the rule, and 19 currently serve. At least one Member of the select committee must also serve on each of the following committees: Appropriations, Armed Services, Foreign Affairs and Judiciary. These Members may be from either party, though in the 101st Congress both parties have at least one Member from each of the four designated committees.

The House Majority and Minority Leaders are ex officio members without vote, not counting in the total membership. The Speaker, while not a member of the select committee, has unlimited access to its meetings and to any information in its possession.

No Member of the House may serve for more than six years of continuous service on the select committee.

The select committee adopts rules of procedure, and may create subcommittees. It currently has three.

The select committee has broad jurisdiction over intelligence agencies and intelligence gathering activities throughout the Federal government, enumerated in clause 2(a) of Rule XLVIII. It may report authorizations of appropriations and other types of legislation. Measures reported from the select committee, except those relating to the Central Intelligence Agency and the Director of Central Intelligence, may be referred by the Speaker sequentially to other committees of the House which may properly claim jurisdiction, and the select committee in turn may request referrals of measures from other committees.

The select committee is exempt from a number of House rules, with examples provided below.

Notwithstanding the requirements of clause 2(g)(2) of Rule XI, which require a majority vote with a quorum being present to close a standing committee hearing, less than a majority of the total membership of the select committee may be present and still vote to close a hearing to the public if they believe that testimony or evidence presented in public would endanger the national security.

In addition, the select committee is exempt from clause 6(a) of Rule XXVIII, which requires House-Senate conference meetings on legislation to be open to the public unless closed by the House with a mandatory recorded vote.

The select committee is exempt from clause 2(g)(2)(B) of Rule XI, which allows Members not serving on any committee or subcommittee to attend any House committee or subcommittee hearing, whether open or closed, as observers unless barred by order of the House. Members who do not serve on the Permanent Select Committee on Intelligence, with the exception of the Speaker, may not attend its closed hearings except upon invitation of the select committee.

Certain other House rules relating to committee operations apply to the select committee "to the extent not inconsistent with the provisions of (Rule XLVIII)".

Employees of the select committee are bound by the rules of the House and the jurisdiction of the Committee on Standards of Official Conduct, and may be granted security clearances by the select committee in consultation with the CIA Director as determined by the rules of the select committee.

The select committee may vote to publicly disclose classified information in its possession if it believes such disclosure to be in the public interest, except that if the information was submitted by the Executive Branch and the Executive Branch requests that it be kept secret, the President must be notified of the select committee's vote. If within five days of the vote the President personally and in writing objects to disclosure, the select committee, if it still wishes to disclose the information, must refer the matter of disclosure to the full House for decision.

Expedited procedures are provided on the House floor which would allow any Member of the House to move, in open session, to consider the question of disclosure in a closed session of the House. No debate is permitted on the motion to go into closed session. If the motion is agreed to and the House takes up the issue, after two hours of debate in closed session it must return to open session to take a vote on disclosure of the information. If the select committee's recommendation is rejected, the recommendation is deemed to have been recommitted to the select committee.

Classified information in the possession of the select committee may not be disclosed to any committee of the House or to any Member not serving on the select committee except pursuant to regulations prescribed by the select committee, and written records must be kept showing what information is disclosed and to whom. These restrictions do not apply to the Speaker.

Members of the House are barred from disclosing the information except in a closed session of the House.

The Committee on Standards of Official Conduct is authorized to investigate allegations of unauthorized disclosure by a Member or staffer and to recommend appropriate disciplinary action, if any, to the House. However, neither the Standards Committee nor the Permanent Select Committee on Intelligence has the power to discipline a Member of the Intelligence Committee or expel a Member of the Intelligence Committee from committee membership. Such decisions must be made by the House.

The select committee may allow a personal representative of the President, designated by the President, to attend any closed meetings.

The Appropriations Committee is barred from appropriating funds for activities under the jurisdiction of the Permanent Select Committee on Intelligence unless such appropriations have been authorized by a bill passed by the House, except in the case of a continuing appropriations bill.

BACKGROUND: SERVICE LIMITATION AND ROTATION RULE

Clause 1(c) of Rule XLVIII provides that "No Member of the House may serve on the select committee for more than six years of continuous service..." This language was adopted when the select committee was created and has not been changed since.

There is nothing in the legislative history to indicate why the "continuous service" language was used. However, it is believed to have been drafted using language from the Senate rotation rule, which do not coincide with the practices of the House since, unlike the Senate, the House is not a continuing body. The language has caused problems.

First, it has been argued that the limitation of "six years of continuous service" in the current rule is too short a time for Members to gain the necessary expertise to understand intelligence issues and practice adequate oversight of intelligence agencies. The Senate has an eight-year service limitation.

Second, the current rule's fixed "six year" provision does not necessarily coincide with the beginning and end of a Congress. It forces some Members who were appointed to fill vacancies in the middle of a Congress to leave the select committee in the middle of a Congress six years later. There are currently four Members who will eventually face this problem (Reps. Glickman, Richardson, Mavroules and Dornan), in addition to Chairman Beilenson, who under the rule would have been forced off the select committee in January, 1990, after only one year as chairman. The adoption of House Resolution 213 on July 27, 1989, extended his service through the full 101st Congress.

Third, the current rule allows a Member to serve in practice no more than a single two-year term as chairman. Rep. Boland, as noted, served for more than 7 years as chairman. Each of his three successors--Reps. Hamilton, Stokes and Beilenson--were chosen by the Speaker in order of seniority on the select committee when each was entering his final term on the select committee (and, in Rep. Beilenson's case, his final year).

Finally, Rule XLVIII contains no requirement for a mandatory period of rotation off the select committee before a Member can be reappointed. This differs from the rules governing the House's two other rotating committees, the Budget Committee and, beginning in the 102nd Congress, the Committee on Standards of Official Conduct.

Only one Member has ever been reappointed to the Permanent Select Committee on Intelligence. He was reappointed to a new six-year term slightly more than a year after resigning from the committee. No Member has been reappointed after rotating off the committee. The legislative and political history of the rule makes clear that its intent was to expose a variety of Members to intelligence activities over time and to prevent a group of Members from forming "client" relationships with intelligence agencies, which might discourage proper congressional oversight.

Rep. Oberstar has introduced H. Res. 258, pending before the Subcommittee on Rules, which would retain the current six-year service rule but perfect it through technical amendments, and allow the chairman and ranking minority member to serve for up to eight years under certain conditions.

Reps. Hamilton, Beilenson and Stokes supporting amending Rule XLVIII to allow all Members of the permanent select committee to serve for a total of eight years and to allow the chairman and ranking minority Member, if appointed to these posts during their last term of service, to serve for an additional two years for a possible total of 10 years.

BACKGROUND: A JOINT COMMITTEE

Reps. Hyde and Solomon have introduced joint resolutions to create a House-Senate Joint Committee on Intelligence. Their intention would be to abolish the existing House and Senate select committees on intelligence. The Hyde joint resolution is detailed, while the Solomon joint resolution is in more general language.

Proponents have long argued that a joint committee would help coordinate intelligence oversight policy between the two chambers, improve relations with the Executive Branch and, with a smaller membership, reduce the possibility of leaks.

On February 26, 1987, the Report of the President's Special Review Board, the so-called Tower Board which investigated the Iran-Contra affair, recommended the replacement of the two existing congressional select committees by a joint committee.

But in creating the existing select committees in the 1970's, both the House and the Senate rejected the arguments of proponents of a joint committee on intelligence. In fact, Congress over the last two decades has shown an increasing aversion to joint committees of any kind. It has moved away from allowing joint committees to have any legislative jurisdiction, on the grounds that committees accountable to each chamber would be more representative of congressional and public opinion and would provide for more effective legislating and oversight.

The last such panel with legislative jurisdiction, the Joint Committee on Atomic Energy, which was the model cited by the Tower Board in its recommendation for a joint committee on intelligence, was abolished in 1977. During the same time period, Congress also abolished the Joint Committee on Congressional Operations and the Joint Committee on Defense Production, neither of which had legislative jurisdiction.

The four currently-surviving joint committees have no legislative jurisdiction and exist to conduct hearings and issue reports (the Joint Economic Committee), exercise oversight functions over certain specialized agencies (the Joint Committee on Printing, the Joint Committee on the Library) or to provide nonpartisan staff support to existing legislative committees (the Joint Committee on Internal Revenue Taxation).

5

BACKGROUND: MEMBERS' ACCESS TO CLASSIFIED INFORMATION

Members of Congress are not required to hold security clearances to serve in office and conduct official business. The same holds true for the President, Vice President and Cabinet officers.

In the case of Members, the public through election has designated Members to exercise the powers necessary to fulfill their constitutional functions.

The Rules and precedents of the House give Members almost unlimited access to information within the possession of any House committee, but also give to committees wide authority to regulate the manner in which Members may examine the information and to restrict its public release.

Clause 2(e)(2) of Rule XI gives all Members of the House the right of access to all committee hearings, records, data, charts and files, except in the case of records relating to the conduct of any Member, officer or employee of the House in the possession of the Committee on Standards of Official Conduct, which may not be seen by other Members except with the permission of that committee.

Clause 7(c) of Rule XLVIII allows Members access to information in the possession of the Permanent Select Committee on Intelligence only with the permission of that committee.

Some committees require Members to come to a secure room to read classified documents. Committees may establish regulations providing that Members may not make copies of files, and, in the case of materials relating to executive sessions, Members may be barred from taking notes or releasing information without the consent of the committee.

Members who receive classified information from the Permanent Select Committee on Intelligence may disclose such information only in a closed session of the House.

The House may vote to meet in closed session for any reason to discuss particularly sensitive information. Some legislation is enacted in the form of classified annexes, which are referenced but not published and must be read by Members in a secure location.

The right of Member access to committee records does not necessarily apply to records obtained by a committee from the Executive Branch for a specified purpose but still under the control of the Executive branch.

Proposals have been made to restrict access by House Members to classified information by requiring them to undergo background investigations and gain security clearances in order to have access to classified information.

House Resolutions 269 and 279 of the 101st Congress, introduced by Rep. Hyde, contain requirements for Members of the Permanent Select Committee on Intelligence to undergo background investigations and obtain security clearances in order to perform their jobs, and would require Members of the select committee to take a formal oath of secrecy. The oath would be administered by the Speaker of the House, and would be recorded in the Journal and the Congressional Record.

Rule XLVIII currently allows the Permanent Select Committee on Intelligence to decide whether to release information within its control to non-Members of the select committee.

Members of the select committee currently have access to classified information in the committee's possession by virtue of their appointment by the Speaker to membership on the committee.

Proposals introduced by Reps. Solomon and Hyde to create a Joint Committee on Intelligence (House Joint Resolutions 8 and 30) do not appear to contain security clearance requirements for Members of that joint committee, but H.J. Res. 8 appears to give the joint committee power to require security clearances for other Members of Congress to have access to information within its possession.

These proposals raise a number of other questions to be considered.

There is no entity in the House currently authorized to conduct investigation of Members and to make decisions about clearances. One would have to be created. House Resolution 269 by Rep. Hyde would direct the Committee on Rules to report a resolution setting up such procedures.

Involvement by the Executive Branch in conducting investigations of Members or making decisions on clearances would raise questions of the separation of powers and the possibility of leaks of information about investigations for political purposes. Denial of a clearance to a Member would have a damaging effect on the Member's reputation in the House and political career in his district, if it became publicly known.

Proposed restrictions on access to classified information by any individual Member of the Permanent Select Committee on Intelligence would disrupt the Speaker's right to make appointments to that committee, and could raise the related question of whether Members should be investigated even before appointment. This proposal would also up two classes of House Members; those who require a security clearance to undertake their duties, and those who do not.

BACKGROUND: STAFF ACCESS TO CLASSIFIED INFORMATION

There is no centralized procedure in the House of Representatives governing staff access to classified information. Each Member or committee can set requirements. Security investigations of staff are customarily conducted by executive agencies at the request of Members and committees.

Security clearance investigations are handled by at least four executive agencies: Office of Personnel Management, Defense Investigative Service, the FBI and the CIA.

Decisions on whether to approve clearances have been made by the congressional entity requesting it, following the investigation.

There are no regulations for handling classified information within the possession of the House or its committees, and no central repository for such information. Separate arrangements are made by the relevant committees or Members with Executive agencies providing the information.

At the beginning of the 100th Congress, the House Permanent Select Committee on Intelligence reported that, other than in the Intelligence Committee, "Congress has no personnel, physical, document and communications security programs which meet or exceed all applicable executive branch security standards." It recommended that the House leadership examine implementing uniform security procedures. (House Report 100-5, Permanent Select Committee on Intelligence, United States Counterintelligence and Security Concerns--1986.)

House Resolution 46, introduced by Representative Dornan, would require semi-annual security briefings for House staff with security clearances, and would authorize revocation of the clearances if staff did not attend.

House Resolution 105, introduced by Rep. Solomon, would create a Classified Information Security Office in the House to assist Members, officers and employees of the House in assuring the protection of classified information in their custody.

The Senate on July 1, 1987 established the Office of Senate Security to protect classified information within the Senate's possession and to develop uniform procedures for the handling of classified information in that chamber.

LEGISLATION PENDING BEFORE THE SUBCOMMITTEE ON RULES

A number of resolutions and joint resolutions are currently pending exclusively in the Committee on Rules and have been referred to the Subcommittee on Rules of the House.

The proposals pending before the Subcommittee fall into two broad categories:

(1) structural reform, making changes in the size of the Permanent Select Committee on Intelligence, manner of appointment of Members, or length of service on the select committee: H. Res. 258 (Oberstar), H Res. 279 (Hyde), H.J. Res. 8 (Hyde) and H.J. Res. 30 (Solomon) and a proposal by Reps. Hamilton, Beilenson and Stokes.

(2) security issues, dealing with the handling of and access to classified information by Members and staff: H. Res. 46 (Dornan), H. Res. 105 (Solomon), H. Res. 269 (Hyde) and H. Res. 279 (Hyde).

H. Res. 46 (Dornan), introduced on January 20, 1989, and referred to the Subcommittee on Rules on January 20, 1989,, would create a new House rule "LI" (51) to require that any House employee must receive a semi-annual security briefing in order to have a security clearance issued or renewed.

The briefing would occur at the time of issuance of the security clearance, or, if the employee already held a clearance from another position, at the time of commencing congressional employment, and would have a briefing subsequently, whenever the clearance was renewed or upgraded, or at least once every six months after the date the employee last had had a briefing. The security briefing would be conducted by the agency or department which issued the particular clearance and would inform holders of clearances of current threats to American security.

The resolution states the sense of the House that any employee who does not receive the requisite security briefings should have his security clearance revoked by the agency or department which issued it.

H. Res. 105 (Solomon), introduced on March 7, 1989 and referred to the Subcommittee on Rules of the House on May 5, 1989, would create a new House rule "LI" (51) to establish a Classified Information Security Office to assist Members, officers, and employees of the House in assuring the protection of classified information in their custody.

The new office would assist the Permanent Select Committee on Intelligence and other committees in preparing, within six months after creation of the office, a classified information security manual which would establish procedures for Members, officers and employees of the House in the receipt, transmission, storage and disposal of classified information. The manual would have to be approved by a two-thirds vote of the House.

The office would assist other Federal agencies in processing House requests for access to classified information and in presenting security briefings, and maintain centralized records identifying officers and employees of the House who have such access.

H. Res. 258 (Oberstar), was introduced on October 3, 1989 and was referred to the Subcommittee on Rules of the House on November 7, 1989. It would amend Rule XLVIII to change the Intelligence Committee's current "six-years of continuous service" rotation rule into a limitation of no more than 3 Congresses during any period of 5 successive Congresses, identical to that used by the Budget Committee.

H. Res. 258 would eliminate the current practice in which the terms of Members who were appointed in the past to fill vacancies on the select committee would expire during a Congress and disrupt committee work. Terms of service on the select committee would begin and end concurrently with a Congress. The resolution would also disregard a Member's service for less than one full session of a Congress, as does the Budget Committee.

In copying the Budget Committee rotation rule, the resolution incorporates the provision of that rule which would allow the Speaker to reappoint an incumbent chairman or ranking minority member of the select committee to another term in that post, if the Member had assumed the post in his last term of eligible service. Under these conditions, a chairman or ranking member appointed in his final term could serve for eight years on the select committee.

H. Res. 258 also provides "grandfather" transition provisions to conform the terms of currently-serving Members of the select committee with the proposed new rule, so that Members would not have their periods of service reduced.

H. Res. 269 (Hyde), introduced on October 19, 1989 and referred to the Subcommittee on Rules of the House on November 7, 1989, would direct the Committee on Rules within 120 days after adoption of the resolution to establish a procedure for granting security clearances to Members and employees of the Permanent Select Committee on Intelligence. It would direct the Committee on Rules to report a resolution barring Members and staff of the Permanent Select Committee on Intelligence from access to classified information under the select committee's control unless a clearance had been granted to that Member or staffer by the House or other entity, committee or officer of the House authorized to grant such clearances, and to establish procedures relating to clearances.

The Rules Committee would be directed to provide in these procedures that: Members and staff must submit a personal history, and have a background investigation conducted comparable to those used by the executive branch; information relating to possible unauthorized disclosures of classified matters by a Member or staffer would be referred to the Standards Committee; interim security clearances could be granted while investigations of Members and staff are ongoing; provide that denial of clearances would be kept confidential, with certain exceptions, and allow Members denied clearance the right to appeal to the full House.

H. Res. 279 (Hyde), introduced on October 31, 1989 and referred to the Subcommittee on Rules of the House on November 7, 1989, would amend Rule XLVIII to require a prescribed secrecy oath for Members and staff of the Permanent Select Committee, to require security clearances for Members and staff of the Permanent Select Committee on Intelligence consistent with those enumerated in House Resolution 269 (see above), to reduce the size of the committee to 13 Members and establish a 7-6 party ratio. The select committee could refer violations of the oath by Members or staff, or unauthorized disclosures of classified information, to the Committee on Standards of Official Conduct, and could deny a Member access to such information while an investigation was pending. A finding against a Member by the Standards Committee would result in his permanent expulsion from the select committee.

H.J. Res. 8 (Hyde), introduced on January 3, 1989 and referred to the Subcommittee on Rules of the House on May 5, 1989, to create a Joint Committee on Intelligence with a six-year service limitation. (While the intent of the joint resolution clearly is to abolish both the House and Senate select intelligence committees, only the House committee would actually be abolished by the language of the joint resolution).

The joint committee would have 9 House and 9 Senate Members, with a 5-4 party ratio from each House. The majority and minority leaders of each House would be ex officio members. Chairmanship of the joint committee would alternate between the two chambers with each session of a Congress. There would be initial staggered terms, and provisions for filling vacancies. Section 501 of the National Security Act of 1947 would be amended to eliminate the ranking minority members of the existing House and Senate intelligence committees from the "Gang of 8" consulted by the President who now receive the most sensitive intelligence information on covert activities, substituting in their place the vice-chairman of the joint committee, and resulting in a "Gang of 6."

The joint committee would have exclusive legislative jurisdiction over intelligence and counterintelligence activities of any Federal department, oversight over such activities, and would authorize appropriations for the CIA, the National Security Agency, the Defense Intelligence Agency, DOD, the Department of State and the FBI. Intelligence jurisdiction currently exercised by the Armed Services and Foreign Affairs Committee would be reduced.

If the President objected to disclosure of classified information by the joint committee, the joint committee could recommend to the two Houses that the information be made public, but only a two-thirds vote of both Houses could order it disclosed, compared to a majority vote of the House under Rule XLVIII. There would be expedited procedures for consideration of such recommendations from the joint committee in the House, but not the Senate. The joint committee would have the power to expel from the joint committee or to censure a joint committee member, subject to appeal to the Member's respective chamber, and to recommend censure or expulsion of that Member by his respective chamber without going through the House Committee on Standards of Official Conduct.

H.J. Res. 30 (Solomon), introduced on January 3, 1989 and referred to the Subcommittee on Rules of the House on May 5, 1989, to create a Joint Committee on Intelligence with a six-year term. (While the intent of the joint resolution clearly is to abolish the existing House and Senate intelligence committees, the joint resolution does not actually repeal House Rule XLVIII or abolish the Senate select committee.)

Initial appointments to the joint committee would be for staggered two, four and six year terms to provide continuity. Members appointed to fill vacancies of less than three years could be eligible for subsequent reappointment to a new six year term. Members appointed to fill vacancies of more than three years could not be reappointed at the end of that time.

There would be 7 Members from each House, with a 4-3 party ratio and designated members from certain committees to be among the appointees. The majority and minority leaders of each House would be ex officio members without vote. The chairmanship and vice chairmanship of the joint committee would alternate every year between the two chambers.

Other provisions are similar to more detailed sections of H. J. Res. 8, but stated in more general terms. The joint committee would have exclusive legislative jurisdiction over intelligence and counterintelligence activities of any Federal department, oversight over such activities, and would authorize appropriations for the CIA, the National Security Agency, the Defense Intelligence Agency, DOD, the Department of State and the FBI.

The joint committee would be authorized to censure or expel from the joint committee a member of the joint committee found responsible for unauthorized release of classified information, subject to appeal to that Member's chamber, or to recommend censure or expulsion of the Member from his respective chamber. Expenses of the joint committee would be split equally between the House and Senate contingent funds.

Reps. Beilenson, Hamilton and Stokes, the current and two immediate prior chairmen of the Permanent Select Committee on Intelligence, have expressed support for amending House rules to increase the term of service on the Permanent Select Committee to eight years, to allow the chairman and ranking minority Member to serve for an additional term in those posts if appointed during their last term of eligible service for a possible total of 10 years and to require Members to rotate off the committee for four terms before being eligible to serve again. No specific legislative proposal has been introduced.

101st CONGRESS RULES COMMITTEE ACTION

In November, 1989, the Rules Committee previously debated several of the issues expected to be raised at the oversight hearing during markup of House Resolution 268, a non-controversial resolution amending Rule XLVIII to allow the Speaker access to the meetings and information of the Permanent Select Committee on Intelligence.

During the markup on that measure, Rep. Hyde made a presentation on other issues related to the structure of the select committee and the manner in which classified information was handled. Rep. Solomon was permitted to offer four non-germane amendments to the resolution consisting of all or parts of one of the Hyde proposals (H. Res. 279). The four amendments were rejected by recorded votes in committee.

The first amendment constituted the text of H. Res. 279 and was rejected by a record vote of 3-6. The second amendment would have reduced the size of the select committee to 13. It was defeated 3-6. The third amendment would have required background investigations and security clearances for Members and staff of the select committee. It was defeated 3-6. The fourth amendment would have required Members and staff of the select committee to take an oath of secrecy and established a procedure for referring violations to the Committee on Standards of Official Conduct. The amendment was rejected, 4-5.

Additionally, when House Resolution 268 was considered by the House, an effort was made to defeat the previous question with the intent of trying to offer these or similar amendments on the floor. The previous question was ordered by vote of 245-176. H. Res. 268 was then adopted by voice vote.

STATEMENT OF HON. EDWARD P. BOLAND, FORMER CHAIRMAN OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

87 Ridgeway Circle
Springfield, MA 01108

June 26, 1990

Honorable John Joseph Moakley
Chairman, Committee on Rules
H-312 U.S. Capitol
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your kind invitation to appear before the Subcommittee on Rules of the House to testify concerning proposed rules changes affecting the Permanent Select Committee on Intelligence and on various other security matters affecting the House. I regret deeply that a prior engagement prevents my appearance. I request that the following brief thoughts be accepted in lieu of my testimony.

I have been informed of the proposals of my successor chairmen of the Intelligence Committee and of those of Mr. Oberstar. I would support the extension of the maximum term of Committee service from six to eight years. I agree with Messrs. Hamilton, Stokes and Beilenson that an additional two years of service on the Committee could serve the House well in terms of the informed judgement and experience Members could bring to the table. I also support extending a chairman's term of service by an additional two years if he has served only two years as chairman in order to insure the Committee can benefit from what he has learned in the first term. My own experience was that I could better perform my duties as chairman after a period of learning the ropes.

I heartily applaud the concept of requiring Members to take a leave of absence from other committee assignments while serving on the Intelligence Committee. The demands on a Member's time are sometimes heavy and there is no way to avoid doing most work within the physical environs of the Committee offices. Offsetting relief from other committee work eases this burden and would help assure attendance at Committee proceedings, almost all of which are held in executive session.

Although early in my time in the House I proposed the creation of a joint intelligence committee, I did so at a time when there was no serious scrutiny of intelligence matters. My service on the Committee has convinced me that a committee of this kind, although unique in character, nonetheless can operate in the main as do other House committees -- bringing legislation to the floor, issuing reports, conferencing with its Senate counterpart. While much of this process is necessarily circumscribed in what is disclosed publicly, it does offer the Congress and the American people the principle benefit of

bicameralism -- the possibility of parallel but divergent opinions, arrived at independently (albeit secretly), and reconciled in conference with the other body. My experience on the Committee showed me the advantages in the formulation of sound policy such a system offers. I regret I cannot offer many examples, most of which remain secret, but I believe the policy differences between the House and Senate over the Foreign Intelligence Surveillance Act helped sharpen both civil liberties protections and those for national security secrets in the conference committee that considered that legislation. A joint committee simply could not offer the same robust confrontation of independent positions arrived at separately.

Another fatal disadvantage I see in joint committees is that they cannot depend on the natural relationship of acquaintance and trust between members of one House and its committees, especially during those periods where the other House, or even a different party, control the joint committee. I cannot overemphasize how critical the relationship between the House membership and the Intelligence Committee members was during my term as chairman. Without the trust of our colleagues for the Committee's judgement, we simply could not have functioned.

I know less about the reasons behind proposals to require regular security briefings and to create a House security office, although I am inclined to believe that a carefully circumscribed central repository of security information and uniform security procedures -- including the granting of all clearances by the House itself -- would assist the House in maintaining the trust and cooperation of the executive branch agencies with which its members and committees must deal on national security matters.

I oppose the concept of requiring security clearances for Members, who like the President and Vice President, are constitutional officers of the government to whom public trust is conferred by the voters. In the case of Members, an additional, careful selection process conducted by the Speaker and the Minority Leader further ensures the choice of very worthy members of the House to serve on the Intelligence Committee. During my time on the Committee, I had no cause to believe that these processes did not result in the selection of fully qualified, trustworthy members of the Committee. We did <u>not</u> have a leak problem!

I do not oppose security briefings or even security oaths as long as they are clearly aimed at educating Members and staff. I do not favor security overkill, however. Thus I think it generally unwise and unnecessary to require more in the way of security practices than the executive branch imposes upon itself.

I also agree with my good friend Henry Hyde that the size of the Intelligence Committee ought to be reduced to its original number, 13. I believe that nearly all the activities of the Committee should be conducted by the full Committee since much of

the Committee's oversight role is so critical. I also found that this smaller number is ideal for debate and deliberation.

I wish to close these observations by commending the Subcommittee for undertaking this review. After 13 years it is useful to reexamine the premises for establishing the Intelligence Committee as well as changes that have occurred along the way. I personally have come away from my own brief review with the strong conviction that the oversight performed by the Committee continues to be very important. I am pleased to note that satisfaction with the Committee's work continues to be its hallmark among House members. That trust -- along with the trust and full cooperation of the executive branch -- are the two essential elements of successful congressional oversight of intelligence. I am truly pleased to note the continuing good health of both elements.

With every good wish, I am

Sincerely Yours,

Edward P. Boland

Mr. MOAKLEY. At this time, then, the committee will be very happy to hear from the panel I talked about, Mr. Beilenson, Mr. Hamilton, and Mr. Stokes.

I don't know which order to call these prestigious chairmen. We will start with the present chairman.

STATEMENT OF HON. ANTHONY C. BEILENSON, CHAIRMAN OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. BEILENSON. Let me say at the outset I suppose I should have had an opening statement. Forgive me for not having prepared one.

This is a useful subject for the committee to look at. It crosses the spectrum here. We are interested—the three of us specifically—in some proposals with respect to the tenure of service on the committee and the tenure of the chairman and a couple of other matters.

Mr. Dornan and Mr. Hyde and Mr. Solomon and other colleagues are concerned more specifically about classifications and leaks and procedures within the committee. So this hearing covers mixed subject matter. I am not sure how you would like us to do it; but perhaps we could speak briefly about some of the things we are particularly asking for.

It would be useful, if I may suggest, sir, especially before our two colleagues and former chairmen get away, to get their response to some of the proposals by Mr. Solomon, Mr. Hyde, and Mr. Dornan. They have had a lot of experience. Perhaps they could be useful in reacting to those kinds of things.

Mr. MOAKLEY. Fine.

Mr. BEILENSON. Let me start off, if I may, Mr. Chairman, by talking about some of the things that I think the three of us are particularly interested in. I must admit I am uncomfortable talking about them, because they are potentially self-serving. They are not meant to be.

Sometime ago the three of us sent a letter to our Speaker suggesting these particular changes. I signed on because I agree with them. I am not the one who initiated these proposals. I do believe they are useful and important, and I do support them strongly.

There are three, basically. The first is raising the maximum term of continuous service on the committee from 6 to 8 years. There are a lot of very difficult and intricate things one has to work with and learn about on the committee.

In terms of my own experience, and I know it is the experience of all my colleagues on the committee from both parties, it takes a while for you to understand all of these complexities and intricacies, to start getting a handle on what goes on in the Intelligence Committee, start understanding the difference between the National Security Agency, and the CIA; to learn who you can depend on, to learn the programs.

We have not only oversight of all the activities, but budget authorization authority. We authorize spending tens of billions of dollars each year. You have to learn the programs in depth and detail. It takes a certain amount of time to do so.

I started to say, in my own particular case, that it wasn't until after I had been there 3½ or 4 years that things started falling

into place and I started understanding and having a feel for that over which all of us had a joint responsibility of oversight and review and budget authority.

Just about that time, a couple of years later, you get rotated off the committee. Yet it is very much the same as on other committees—authorization, appropriations—which have oversight functions: The longer you are on it, the better job you can do of oversight.

I don't think Intelligence should become a permanent committee, but I do know it is foolish to let men and women get training there for 3 or 4 years and then, a couple of years later, just when they are starting to get the subject matter under their belt, get rotated off.

It is particularly true on the Intelligence Committee. You are dealing with secretive, arcane matters, and with an intelligence community which isn't always above board or out front with you the way other Federal agencies might be.

It does take you a decent amount of time to get an understanding and feel for the things you have responsibility over, and to repeat myself, we shouldn't get rid of people just as we get them well-trained in understanding what their job should be.

Our second proposal is to have the chairmanship of the committee change every 4 years rather than every 2 years, which has been the recent practice. Each of us has served for only 2 years.

In my case, I got the second year only because the House was kind enough to waive the rules and let me serve a seventh year because I came on in the middle of a Congress. I would have been out after serving 1 year as chairman and someone else would have had to come in.

Again, I don't need to spell this out in detail. Perhaps my colleagues can. It takes a while to get your staff under control, for them to learn to work with you and for, even more importantly—I am being a little facetious—for the intelligence community, the people over whom you have oversight, to get to know you, and to secure mutual trust. Most importantly, they need to know you are going to be there for a little while.

If you are only going to be there a year, a year and a half, they start playing games, waiting until you are ready to go. They try to get after the next guy when he comes along. If they know they have to deal with you for 4 years, they are more serious. We are able to do a better job of the oversight and budget work that is necessary for us to do.

Finally, we are suggesting that the committee be given a status equivalent to that of the Budget Committee. In this case, we are talking about Democratic Caucus rules relative to committee membership.

Similar to members of the Budget Committee, we feel members of the Intelligence Committee should be required to take a leave of absence from their second committee, if they are on two—not if they are on an exclusive committee such as Appropriations or Ways and Means—to serve on this committee.

We are a select committee, but we have legislative powers. We send bills to the floor. As I said before, we authorize billions upon billions of dollars. We need a lot of help from our Members.

Quite frankly, we don't get as much help as we ought to have. Part of the reason is that Members have a lot of legislative responsibilities elsewhere, and find it difficult, sometimes impossible, to come to our hearings and meetings. In fact, we need a certain critical mass of people who will invest a certain amount of their time so we can do our work well.

We have a real responsibility which we take very seriously on behalf of not only the entire Nation but also all our colleagues in the House. Nobody else sees the information we deal with. Nobody else gets to know the numbers, which get larger and larger all the time. We need a certain number of people who will give us a certain amount of their time in order for us to do the job well.

It is a much more time-consuming committee, a much more important one in almost every respect, if I may say so, than the Budget Committee which allows its members extra staff and requires leaves of absence from second committees.

Mr. MOAKLEY. Tony, since the Intelligence Committee meetings aren't listed——

Mr. BEILENSON. Our members know when we meet. They are supposed to be there. We send them notices.

Mr. MOAKLEY. Could you tell us how much time you meet without violating any——

Mr. BEILENSON. Sure. Of course. In fact, the committees are often listed in the Washington Post in the morning. It just doesn't tell you what they are about.

We meet quite frequently. It varies, of course, from time to time. We meet very frequently the first 4, 5 or 6 months of the year because we spend 2 or 3 days a week on budget matters. It is not the entire committee, ordinarily. It is the Budget Subcommittee which the chairman of the full committee has historically been chairman.

On 2 or 3 days a week, we spend 2, 3 hours in the morning going over budget matters. We meet continuously throughout the year; we are meeting more now than we have in the past. Meeting once or twice, sometimes three times a week beyond those budget meetings, reviewing covert activities, looking at other matters, having briefings on one matter or another.

I suppose it averages a couple of meetings a week throughout the entire year and more in other parts of the year. It is a frequently meeting committee.

Mr. MOAKLEY. It is a demanding committee?

Mr. BEILENSON. Very much so. More than that, we need the attention and a big chunk of the time of our Members. We have a lot of things to do. You can't do the job with just the chairman, who spends 4 or 5 hours a day, as the chairmen have to do, and a very good ranking minority member, which I have in Mr. Hyde. We need a lot of help. We have a lot of money to look at, and a lot of different subjects to cover.

As the chairman knows, people are always begging Mr. Michel, Mr. Foley to get on the committee. Too often, they don't spend that much time on it once they get on there. They should be given this choice: "Look, it is an important committee, a serious committee. Are you willing to give up your second committee—retain your seniority, come back 8 years later—but make a commitment to give

the Intelligence Committee the time and attention you need to?" That is what we ask.

Mr. MOAKLEY. Mr. Stokes.

STATEMENT OF HON. LOUIS STOKES, FORMER CHAIRMAN OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. STOKES. Thank you, Mr. Chairman.

Mr. Chairman, as a former chairman of this committee, let me just first say that it is an extremely important committee. I think the Members of the House have no way to really gauge the full importance and significance of the work of this particular committee.

I happen to be on the Appropriations Committee. At this time I serve on three subcommittees there. During the course of time I chaired this committee, I found an enormous responsibility to be able to carry out Appropriations Committee responsibilities and simultaneously conduct the chairmanship of this committee. But I was able to do it simply because we had some extraordinarily capable people up there on our staff and we had an excellent working relationship with the ranking minority member. My ranking minority person was the same as that of Mr. Beilenson, Mr. Hyde.

Mr. Hyde and I fortunately had an excellent working relationship. I don't know of anything we ever really disagreed upon in terms of that committee, in terms of its procedure and its work. But it did consume an enormous amount of time.

As Mr. Beilenson said, it takes about 4 years as a member of that committee to really be in a position to know and understand the enormity of the programs that you have to really not only learn but be extremely familiar with in order to understand and be able to ask intelligent types of questions of persons who appear before you.

In the same manner, of course, our first chairman, Ed Boland, had a regular tenure, a long tenure. Mr. Hamilton and I, of course, served only 2 years. Mr. Beilenson, had it not been for the extension of time granted him by the caucus, would have served just 1 year as chairman.

You are under a tremendous handicap in that respect. You are dealing with people who appear before you every day who are professionals in the intelligence field. They are veterans, 20, 25, 30 years of nothing but intelligence work; many of them just limited to a particular sphere or avenue of intelligence work. So they are extremely capable, extremely qualified and able people; and you are thrown up against them after a very small time you have had to know and understand all of these variables within the intelligence community.

So I strongly support some type of a system under which the chairman would have at least 4 years of chairmanship up there. If he doesn't have it, all these fellows have to do is wait you out. They know you are only 3 or 2 years. They can pull the wool over your eyes. That is their business, to pull the wool over people's eyes.

Mr. MOAKLEY. That is where they get their practice, testifying before you.

Mr. STOKES. That is right.

I strongly support it. I think that we bolster our own strength in the House by giving our committee members that 8 years or at least 6 to 8 years, and the Senate already has 8 years. There is no reason for us to really be different from them in that respect. So I support that.

I have some comments I would like to make with reference to a couple of other proposals.

Mr. MOAKLEY. I would like to hear that.

Another thing I meant to say, if you people all know about the other proposals before us. After you speak on the terms, I would appreciate any information that you can give to the subcommittee on your perspective on some of these other proposals.

Mr. STOKES. Thank you, Mr. Chairman. I would be delighted to try to make some comments on them.

First, on H.J. Res. 8, a proposal by Mr. Hyde to provide for establishment of a joint committee on intelligence, I have had discussions with Mr. Hyde on this matter. I happen to take the opposite view, that is, the best interests of the House would not be served by a joint committee.

First, I approach it from this viewpoint: The question is, what are we really fixing? What is broke? If nothing is broke, then I see no need for us to try to fix it.

I know Mr. Hyde has certain concerns. Let me try to address a couple of things I think he is concerned about.

I think that the interests of the House and Senate are sufficiently different not only in the other areas of legislation, but particularly in the area of intelligence. I think philosophically the House and Senate have different views and perspectives, and we do not serve the House Members and their specific interests and concerns by an amelioration or conglomeration of these two units. I think we protect the interests of our Members by keeping it separate.

One of the things I found while chairing the Intelligence Committee was that by having two committees, it gave us a little more leverage on the intelligence community. There were instances where on specific issues—let's take an issue of covert action—we found it often necessary to put a little pressure on them with reference to some of the things that they were doing where we didn't particularly agree with what they were doing. Perhaps we couldn't stop it at that point.

But we did feel, working with the Intelligence Committee of the Senate, that we could take a different approach, or devise a strategy between us, as to how we were going to make some impact on the situation.

If you have one committee, it is impossible to sit with the other body and make some type of a concerted strategy to work in the best interests of the Congress relative to something that Congress perhaps is not fully in support of. So I think you lose that where you have one committee.

Then if we really look at it, joint committees here in the Congress are diminishing. They are not increasing. The space being occupied currently by the Intelligence Committee of the House is the old space occupied by the Joint Committee on Atomic Energy, which went out of business, as you know.

Under Mr. Hyde's proposal, this committee would, of course, have legislative powers. I don't know of any joint committee that has legislative powers. Right now we can find the Joint Committee on Printing, Joint Economic Committee, but I don't think they have any legislative power at all.

I think were we to try to merge these two committees, we would run into some difficulty with some of our committee chairmen who gave up a certain amount of their own jurisdiction in favor of the select committees on both the House and Senate side. They did so, I think, because they had a trust factor here. They trusted the Members on the House side that they will do the type of work given them without specific encroachment on their respective areas of jurisdiction.

I don't think that would pertain were they to be asked to give up that type of jurisdiction over to a single body, particularly under a diminished number of members on the committee, and so I would think that that is another factor.

I have also found that generally speaking, I think the Senators find themselves too few to be able to do all the things that they are required to do currently over there. It is very difficult for them to be able to do their floor work, make all their committees with the smaller number of Senators who exist over there. I think House Members have a similar problem.

Right now you can belong to other committees and still be a member of this committee, the Select Committee on Intelligence. I think Members find themselves extremely strung out in terms of time. When you diminish the committee from where it is now, the current 19 members, I believe, down to 9 Members of the House, 9 Members of the Senate, you are asking fewer Members to do more work.

I think rather than that, we should be having more Members who can carry out all these responsibilities, particularly with oversight being a major function of the Intelligence Committee.

Once you have gotten your budget out of the way and you have conducted your budget hearings, then most of your time the rest of the year is relegated to full committee meetings and meetings related to oversight function.

If I may make a couple of comments about H. Res. 279——

Mr. MOAKLEY. If I may stop you there, the thing that bothered me about joint committees—and I was the chairman of a joint committee in the Massachusetts legislature—since the schedules of the House and Senate differ, you have an additional burden getting a quorum together.

As you said, the Senators are spread so thin. You could be sitting with your House Members just twiddling your thumbs waiting for a quorum to be made up. That would further reduce your efficiency in getting things done.

Mr. STOKES. I do think that is a very real problem, Mr. Chairman, yes.

Mr. MOAKLEY. What do you think of Mr. Hyde's recommendation that the joint committee be able to expel one of its members if it found him disclosing information that violated the secrecy oath?

Mr. STOKES. I have a very real problem reposing this type of power in a select committee. I think that the current rules of the

House adequately cover this type of a situation and that we ought not to tamper at all with our current procedures relative to that.

Mr. MOAKLEY. If you want to continue now?

Mr. STOKES. I would like to make a few comments regarding H. Res. 279.

I think when it comes to reducing the membership here on the committee, on the select committee, we also incur the problem of reducing various constituencies in the House from having representation on that committee..

As you know in the House today, there are various constituencies, all of whom feel that it is important to have some input into the intelligence policies of the House. Currently, the committee, let's say, does not have a black Member of Congress serving on there. When I left the committee, I was the first black Member to ever serve up there. I am the only one that has served. When I left, the only other minority on the committee now is Bill Richardson. I think that is to be considered.

I think the Speaker in appointing Members of that committee tries to take into consideration the various constituencies of the House. When you reduce the membership, I think you reduce the probability or possibility of being able to give various constituencies in the House some opportunity to serve on that committee.

Mr. MOAKLEY. Lou, you think 19 is a workable number, then?

Mr. STOKES. I do. Yes, I do. I didn't find any problem with it. I would imagine Mr. Beilenson does not find it cumbersome at all.

I see some real problems from the administration passing judgment on security qualifications of Members of the House. The security system that Mr. Hyde proposes in his legislation, I think, creates some real problems. I think some problems could incur to impact upon a Member's career.

What if a Member is rejected for a security clearance for some reason or other? What then happens once that information is leaked back to his district? It is going to be leaked, if we know anything at all about this institution.

I have not found during the period I chaired this committee any real moving or persuasive reason for us to subject Members of the House to this type of scrutiny. There are Members of this House who serve on all kinds of committees here in the Congress where they have access to highly classified information. We do not subject them on any of these committees to that type of information.

I imagine on Foreign Affairs, other committees in the House, they get certain classified information. We don't require them to subject themselves to security clearances.

I don't think you really solve the problem of leaks either by reducing it down to a smaller number of people or subjecting Members to this type of security clearance.

I have had the privilege of serving as chairman of three committees in the House where we were privy to some very classified information. When I chaired the Assassinations Committee of the House, we had some highly sensitive, highly classified information relative to the assassination of both the late President John Kennedy and Dr. Martin Luther King. During the period of time that we conducted that investigation and up to this date—we completed the investigation in 1978—we didn't have a single leak, anything that

in any way led to any embarrassment or any libelous information of any kind publicly. When I chaired the Ethics Committee of the House for 4 years, we didn't have any leaks.

I think the way you conduct a committee and the Members of the House when they are appealed to in terms of their responsibilities both to the House and to the public should show a great deal of sensitivity to that.

Most of the leaks, I found, come from the administrative side of our Government than it does here in the Congress. So I would strongly say that I do not see any reason for this.

Last, let me just say this: I think accessibility to our own chairmen here in the House is very important. Members take their service on this committee very seriously. If something happens where they feel the committee ought to be looking into something, they will come up to Lee or to Tony or myself, on the floor, and say, "Mr. Chairman, I really think this is something the committee ought to talk about today." Then you can just call a meeting immediately, because the Members generally are very flexible and they really want to meet and they really want to address these problems; particularly when they realize if they don't, other Members of the House are going to ease up to them and say, "What are you guys doing on the situation. Did you see what happened today?"

You can't do that under some other form of situation other than the situation we currently have. I would strongly urge that we maintain our current system.

Mr. MOAKLEY. Lou, how do you feel about the oath of secrecy Mr. Hyde wants to give to Members in addition to the oath we take when we are sworn in as Congressmen?

Mr. STOKES. I see it as just being an additional cumbersome and unnecessary requirement. I think every Member of this House takes seriously their responsibilities as Members of this House. I think that they are responsible people. Most of them recognize, particularly when they go on that committee, that they are given a very special privilege reserved for only a few Members of this House.

When I was appointed to the committee, I recall Speaker Tip O'Neill saying to me, "Lou, I have 40 Members of this House who are in line, who want to go on this committee." I have heard from others that the list was as long as 70 Members at the time they went on.

So I think most Members realize when you are selected to go on this committee, you are a very special Member of this House. You have been given a privilege that others want and have not been given. You have a very special responsibility, both to the Speaker of the House and to the Members of the House. And I think most Members appreciate and respect that special honor that they are given.

Mr. MOAKLEY. I know Members who aren't members of the Intelligence Committee respect the members of the Intelligence Committee very greatly, too.

Mr. STOKES. That is right.

Mr. MOAKLEY. It is a tough job.

Chairman Hamilton.

STATEMENT OF HON. LEE H. HAMILTON, FORMER CHAIRMAN OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. HAMILTON. Mr. Chairman, first of all, thank you very much for opening up the questions of how the Intelligence Committee ought to be structured and other changes that ought to be made in the manner in which we handle intelligence information.

I think these are matters that need careful review by this House and the proposals before us are constructive and very much worth considering.

I testify in support of the recommendations that Chairman Beilenson and former Chairman Stokes have made with respect to the 8-year term, the extended term for chairmen, and the mandatory leave from other committee assignments for members of the committee.

Let me begin by just saying a word about the performance of intelligence today in foreign policy—and in this I echo something Mr. Solomon said a moment ago. I think all of us begin from the premise that good intelligence is essential to the national security of the United States. I think we all recognize that the requirements that are placed upon the intelligence Community today are enormous, they are varied, and they are expanding.

All of us want to see those responsibilities carried out very well. My impression, as a result of my experience on the committee—and it is important to keep this perspective, I think—is that the quality of U.S. intelligence is good overall.

I know that every President from time to time has reason to complain about the quality of intelligence. So do members of the committee. But the tasks of intelligence today are daunting. We have highly skilled professionals in the executive branch and we have had very dedicated Members in the House who have served on this committee. I think we have intelligence today of which the Nation can be proud.

The other point I would make is that it is important to see where we are today in intelligence. We are at a major crossroads. The predominant concern of the intelligence community in the postwar period has been the Soviet threat. That Soviet threat today is receding by all accounts.

We have thousands and thousands of people today in the intelligence bureaucracies. We spend billions and billions of dollars today on intelligence.

The entire function of intelligence in government is at a crossroads. We need to re-examine what the role of intelligence is going to be in the new security regime that will be emerging in the years ahead.

So it is exceedingly important that we in the House understand—that the committee, particularly, understand—the transitional phase that the intelligence community is going through now.

We already see a lot of articles in our journals about the new responsibilities of intelligence. Quite frankly, the intelligence agencies around town are looking for things to do in order to protect their turf. They are not necessarily wrong, but they are clearly ginning up, if you would, a major effort to justify the expenditure of billions and billions of dollars and the employment of thousands

and thousands of people, which may or may not be appropriate. The Congress ought not simply accept the view of the Executive on this; it should examine these issues independently.

The second point I want to make—the first point was the importance of intelligence—concerns the importance of the congressional oversight process.

The fact is that these committees in the House and the Senate are the only institutional check on the intelligence community outside the executive branch itself. We do not have the backup, if you would, of the full House of Representatives. We don't have the backup of the full Senate. We do not have the backup of the press, like we do in all other committees. We do not have in the intelligence community the normal checks and balances that operate in a democratic system.

Either the House Intelligence Committee finds the flaws and mistakes of the executive branch or they don't get spotted. That is how important this committee is.

The rest of us, as Members of this House, do not know what is in the intelligence authorization bill when it is reported to the floor. We have only the most general knowledge of it. That is the way it ought to be. As Members we rely very heavily on the Intelligence Committee. The public relies very heavily on it.

So this committee has very unique responsibilities because of the lack of ordinary public accountability. It has exclusive oversight—that is the point I guess. It has exclusive oversight over the intelligence community. That is why it is so key.

At a time—at least in recent years, and probably in the future as well—when the intelligence community has engaged in an extraordinary number of covert actions, when it is using technology of the most sophisticated kind, when the numbers of targets are expanding, the sophistication of the operation is greater than ever before, there are enormous new demands upon the Intelligence Committee today.

We want to know everything. Policymakers today want to know everything. Fifty years ago we wanted to know the capabilities of the Soviet Union, and we focused on their missile capabilities. Today, we want to know oil prices; we want to know what happens when the Arab sheiks get together; we want to know whether or not President Marcos' kidneys are functioning properly. We want to know all kinds of information.

We never want our negotiators, of any kind—security, economic, any kind—to go into any session without having superior intelligence. So the demands on intelligence are very, very great and the responsibilities of the committee are great.

I have a lot of concerns about the intelligence community, some of which are addressed by these recommendations and some which are not. I worry about security leaks—maybe more than Mr. Stokes does, maybe more than Mr. Beilenson does. I think our Republican friends have a point here.

We do have problems with security leaks. This may or may not be exaggerated, depending upon your perspective. But it is something we should be concerned about.

I worry about the misuse of intelligence by policymakers. Intelligence is information. It is information that a lot of people in this town don't have, and information in this town is power.

You can manipulate a debate, you can set an agenda by the manner in which you release information. Much government information is under almost the exclusive control of the executive branch, and I worry about its misuse.

I worry about classification questions. I was very glad to hear you say a moment ago, Mr. Chairman, that you were looking into classified information and how we handle it.

The House needs to review its procedures for handling classified information. We need to have a common set of rules for all of the committees that deal with intelligence information.

I worry about the organization of the intelligence community. The very phrase "intelligence community" is an odd phrase. There is no director of intelligence in the American system. The man usually identified for that responsibility is the Director of the CIA, but he controls just a pittance of the intelligence budget. There is no director. There is no head of intelligence. We have a very anomalous organization.

I am not sure it is the right organization. What has impressed me, quite frankly, about the committee is that we have never really examined the question of how we ought to organize the Government for intelligence purposes. We should. Well, that is the broader picture.

I am totally in accord with the rules changes Mr. Beilenson has mentioned. I agree with the statements of my colleagues about the 3 to 4 years it takes to get acclimated to the material.

These fellows from the executive branch will snow you with acronyms. You can sit through the first session of the budget hearings and think you are listening to Greek. They will just simply snow you. It is almost impossible to understand for the first year or two.

Now, there might be some bright people around here who can pick it up in 2 years. It took me 4 years. Then I was off the committee in another 2 years. So I think the 8 years is entirely appropriate.

I am going to make a suggestion at the end of my remarks which will surprise you. I have almost concluded.

The turnover in the chairmanship is an important issue. One of the reasons the House Intelligence Committee gained the stature it did was because of Ed Boland. One of the reasons he was able to do this—apart from his personal qualifications, which were, as we all know, exceedingly fine—was because he was in that position for almost 8 years. He created a certain reputation there over that period of time.

Now, maybe we can't go back to that. I am not sure. But at the very least, we ought to give the chairman 4 years to operate, I think. The same thing, of course, goes for the ranking member. To give a chairman only 2 years puts him very much under the sway of your staff, too much in my judgment—although, I must say, the staff here has been outstanding, professional, and very, very good in my experience.

It also puts the chairman too much under the sway of the executive branch. They know you are only going to be there 2 years. Be-

lieve me, we have a lot of bureaucrats around this town who are smart enough to figure out ways to get around you when you are only going to be there 2 years. They do that. That diminishes your power. It diminishes your influence.

The Senate has a longer term for their chairmen. I think that is important to note.

I want to say a word about the selection of Members. Originally, when Mr. O'Neill and Mr. Wright and the minority leaders at that time selected the Members of the Intelligence Committee, they did it by themselves. They did not submit their choices to any steering and policy committee. Their thought was to pick senior Members, very trusted, and inside players. They had in mind a certain kind of role model. The idea was to insulate the leadership from the pressures of the caucus.

Everybody knows every Member wants to serve on the Intelligence Committee. It gives you information that other Members in the House don't have, and that gives you prestige and it gives you power in this institution.

I think, quite frankly, we ought to go back to the old system in the selection of Members. I know that is not before you, but I think we have gotten away from that. I don't think it is a good trend in the way we select Members.

I think we are too subject to popular pressures, if you would, from the caucus. I think we ought to insulate our leadership as much as we can from that. You will get a better quality Member on the committee, I believe.

In closing my remarks, let me just say this: I was very interested a moment ago, Mr. Chairman, in your remarks about the reasons for rotating membership on this committee. If I heard you correctly—I don't know I have your words exactly right—you said there were two reasons. One, you wanted to have a variety of Members; and, two, you wanted to minimize the risks of developing an excessively close relationship between Members and the Executive, or words to that effect.

Those two reasons apply to every committee in this Congress. They apply to the Ways and Means Committee; they apply to the Appropriations Committee; they apply to the Rules Committee. They are just as valid, I believe, or invalid, for any other committee as they are for the Intelligence Committee.

Now, that raises a real can of worms, doesn't it? I will tell you where I come out on all of this. I have concluded that we ought to consider making this committee a permanent committee and not a rotating committee. I use the word "consider" advisedly. There may be some aspects of this I haven't thought about. But I think intelligence is a permanent committee's responsibility.

I think the Intelligence Committee has almost the significance of our exclusive committees. I don't think it is proper to just put this committee in the mill with the other committees. It is an important committee with unique responsibilities, as Tony and Lou spoke about.

So I am about 75 percent persuaded that we ought to go to a permanent committee. I know that is not before you now.

However, as a minimum, at least what I would consider a modest step, I support the proposals Chairman Beilenson has put forward.

[Mr. Hamilton's prepared statement follows:]

PREPARED STATEMENT OF HON. LEE H. HAMILTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman, I commend you for calling this hearing to discuss proposed changes in the structure and rules of the House Permanent Select Committee on Intelligence.

The proposals before the Rules Committee are all worthy of careful consideration. I support Chairman Beilenson's recommendations for an 8-year term of Intelligence Committee service, extended for chairmen and ranking members, and a mandatory leave of absence from other committee assignments. I would also like to offer a few comments on some of the other proposals under discussion.

INTELLIGENCE IN A CHANGING WORLD

Recent changes in the international environment are placing new demands upon the U.S. intelligence community and the congressional intelligence committees. These new demands strengthen the case for the rule changes proposed by Chairman Beilenson.

I think we all begin from the premise that good intelligence is essential to the national security of the United States. We all recognize that the demands we make of the intelligence community today are enormous, varied, and expanding.

Presidents and members of the intelligence committees occasionally have reason to complain about the quality of intelligence. The impression I formed as a result of my experience on the House Intelligence Committee, however, is that the overall quality of U.S. intelligence is good. Skilled professionals have given us intelligence of which the Nation can be proud.

The range of U.S. intelligence activities has been expanding in recent years. Since 1980, our intelligence agencies have engaged in an unprecedented number of large-scale covert actions. They are monitoring an expanding number of targets and using increasingly sophisticated technology. These developments have placed new demands upon the intelligence community.

American policymakers want to know everything these days. Fifty years ago, we wanted to know about Soviet military capabilities. Now we want to predict oil prices; we want to know whether or not President Marcos' kidneys are functioning properly; we want to know all kinds of information. We never want U.S. negotiators to go into any negotiating session without superior intelligence.

Our intelligence agenda is also changing. The predominant concern of the intelligence community in the postwar period has been the Soviet threat. That threat is receding. Other challenges to U.S. security and prosperity—such as ethnic and nationalist conflicts, economic competition, and environmental decay—are gaining new prominence.

We stand at a major crossroads in intelligence today. We need to examine the role of our intelligence agencies in the post-Cold War security regime that is emerging.

Confronted with a changing international order, intelligence agencies are searching for new missions and objectives. They are engaged in a major effort to justify the continued expenditure of billions of dollars and the employment of thousands of people. Congress and the President will need to work together to determine future intelligence budget requirements and responsibilities.

THE IMPORTANCE OF CONGRESSIONAL OVERSIGHT

The House and Senate Intelligence Committees are the only institutional check on the intelligence community outside the executive branch. Intelligence oversight occurs behind closed doors, without the benefit of the full House and Senate and without the scrutiny of outside groups or the press.

Members of Congress have only the most general knowledge of what is in the annual intelligence authorization bills when they are taken up on the floor. Members and the public therefore rely heavily on the committees. If the intelligence committees do not identify potential intelligence flaws or misjudgments, they may not be found. Since the oversight exercised by the intelligence committees is exclusive, it must be thorough.

The normal checks and balances of our democratic system do not apply with the same force to intelligence matters. This absence of ordinary public accountability gives the intelligence committees extraordinary responsibilities. The committees now play a major foreign policymaking role.

OTHER INTELLIGENCE CONCERNS

I have several additional concerns about U.S. intelligence policy, some of which are addressed by the proposals before the Rules Committee.

First, I am concerned about leaks of classified information. Depending upon one's perspective, this problem may seem great or small, but I think it is something we need to examine closely.

Second, I am concerned about the misuse of intelligence by policymakers. Intelligence is information that few people in Washington have, and information is power in this town. You can manipulate a debate and set a policy agenda through the control of information. Much foreign policy information is under the nearly exclusive control of the executive branch. At times, this information has been misused.

Third, I have concerns about the handling of classified information. Congress should review its procedures for handling sensitive materials. We need a common set of rules for the various committees that deal with classified information.

Finally, I worry about the organization of the intelligence community. The very phrase "intelligence community" is odd. There is no single director of intelligence in our system. The person usually identified as our chief intelligence official, the director of the CIA, controls only a portion of the annual intelligence budget. Our intelligence operations are not centralized.

This is an anomalous arrangement, and I am not sure it is the best one possible. The intelligence committees have never examined how we organize our government for intelligence purposes. They should.

CHAIRMAN BEILENSON'S PROPOSALS

Chairman Beilenson's proposed rules changes would help the House Intelligence Committee meet the challenges of oversight in a changing intelligence environment. I would like to address each of these proposals briefly.

It takes members of the intelligence committees 3 to 4 years fully to learn the material for which they are responsible. Agency officials can snow members with intelligence acronyms. To members sitting through their first round of budget hearings, the discussion can sound like Greek. The committees' work can be almost impossible to understand during a member's first year of service.

Some members may be able to master the material within 2 years. It took me 4 years, and I left the committee 2 years after that. I think my experience was common. An 8-year term of service and a leave of absence from service on another committee would give the membership greater continuity and more time to devote to committee business. This would improve the overall quality of intelligence oversight.

I also support Chairman Beilenson's proposal for a 4-year chairmanship. The first chairman of the House Intelligence Committee, Congressman Edward Boland, played a major role in building the committee's stature. Apart from his fine personal qualities, Mr. Boland was able to accomplish this because he held the chairmanship for 8 years. He had time to establish his authority both on the committee and in the intelligence community. I am not sure we can return to a chairmanship of this length. But at the very least, we ought to give our chairmen 4 years to operate. The same rule should hold for ranking members.

A chairman who serves for only 2 years can become too dependent upon staff. A brief term also puts the chairman at a disadvantage in his relations with the executive branch. Many bureaucrats in Washington are smart enough to figure out ways to evade a chairman they know will be gone in 2 years. This perpetual "lame duck" status diminishes the chairman's power and influence.

OTHER PROPOSED CHANGES IN HPSCI RULES AND PROCEDURES

I do not favor the establishment of a joint House-Senate intelligence committee, as proposed by Mr. Hyde in H.J. Res. 8. The key question in my mind about a joint committee is whether the intelligence community needs more or less oversight. If we think less oversight would be wise, then we should establish a joint committee, because that will be the result. If we conclude that we need more oversight, though, then we should retain two separate committees. I support separate committees.

Mr. Hyde's proposal in H. Res. 269 and H. Res. 279 that Members obtain security clearances raises difficult separation of powers issues. I do not think it is appropriate for the President to tell Congress who is to be trusted and who is not. Nor is it the responsibility of Congress to tell the President. These should be internal matters. If either branch of our Government has problems with security, it ought to correct them on its own.

Mr. Hyde's proposal in H. Res. 279 that Members take security oaths also raises separation of powers concerns. I would be prepared to take such an oath if the President also took one. My tenure on the House Intelligence Committee gave me the impression that it is the President and the executive branch who do the most leaking of classified information in our Government. Presidents inadvertently leak almost every time they hold a news conference. Members of Congress also leak from time to time. I do not know whether a security oath would prevent accidental or intentional leaks.

Finally, although I have not had an opportunity to examine them closely, I think H. Res. 105, Mr. Solomon's proposal for a new system for handling classified information, and H. Res. 46, Mr. Dornan's proposal for biannual security briefings, deserve careful consideration. I beieve we have become lax in our handling of sensitive materials. It is a standing joke in Congress that Members will sometimes justify the release of classified information by saying, "well, I read it in *The New York Times.*" Staff have also at time been careless.

TWO ADDITIONAL PROPOSALS

In closing, I would ask the Rules Committee to consider two other issues relating to the House Intelligence Committee.

First, I want to make a suggestion concerning the selection of Intelligence Committee members. Many members want to serve on the committee. Membership provides influence, access to information, and prestige that other Members of the House lack.

Speakers O'Neill and Wright and the minority leaders at the time initially selected Intelligence Committee members by themselves. They did not submit their choices to a caucus steering and policy committee. They tried to pick senior Members who were trusted inside players. They tried to insulate themselves from caucus pressures.

The House leadership is now subject to too much pressure from the caucuses when selecting Members for the committee. If the leadership could be inslulated from these pressures, the quality of oversight would probably improve. We need to give some thought to restoring the earlier system of selecting Members.

Second, I think we need to reevaluate the select status of the House Intelligence Committee. It is frequently argued that rotating the membership of the committee contributes to a diversity of perspectives and minimizes the risk of excessively close relationships between Members and executive branch officials or lobbyists.

These concerns are as valid for any permanent committee in Congress as they are for the Intelligence Committee. There is a possibility on any committee that members might develop inordinate sympathy for the perspectives of the agencies or departments for which they have oversight responsibility.

Despite this possibility, we have retained permanent memberships for most committees because we believe the advantages of experience and continuity outweigh the possible disadvantages of cooptation. In addition, a rotating membership inevitably tends to shift authority to committee staff and executive bureaucracies. That is usually a shift in the wrong direction.

Intelligence is a permanent committee's responsibility. The Intelligence Committee's work is as significant as that of some of our permanent committees, like Rules and Appropriations. Membership continuity and experience would be valuable to the work of the Intelligence Committee.

In light of these points, I think we need to consider making the House Intelligence Committee a permanent committee, ending the rotation of its membership. I use the word "consider" advisedly. Certain aspects of this proposal need careful examination. At this point, however, I am nearly persuaded that the Intelligence Committee should become permanent. At a minimum, we should adopt Chairman Beilenson's modest proposals, which would enhance oversight capabilities.

Mr. MOAKLEY. Thank you very much, Lee.

Did you make any comments on the joint committee structure?

Mr. HAMILTON. I do not favor a joint committee. I did favor it at one time.

The key question to me about a joint committee—and this is a controversial point—it does the intelligence community need more or does it need less oversight? If your purpose is less oversight, then I think you move towards a joint committee because that is what you are going to get.

If you believe that you want more oversight—I am in that school—then I think you keep two committees. That is the way I analyze it.

There are other points Lou made that I thought were very, very good.

The House and the Senate are very, very different institutions. They operate differently. I think Lou made that point very, very well.

On the security clearance question, I will say this: I think on the security clearance question you have a separation of powers issue. It is not for the executive branch to tell us in this institution who is to be trusted and who is not. Nor is it our responsibility to tell them. That is an internal matter.

If we have problems with security, we ought to correct them. If they have problems with security, they ought to correct them.

On the security oath, I will take the oath when the President of the United States takes the oath.

If you want to know who leaked the most information during my tenure on the Intelligence Committee, I will tell you: It was the President of the United States. Presidents leak. Almost every time they have a news conference, they leak.

So do Members of Congress from time to time. Whether or not an oath would help, I don't know. But I will take one when the President takes one.

Mr. BEILENSON. Mr. Chairman, may I comment for a second?

Mr. MOAKLEY. I would hope any one of you gentlemen would jump in if someone raises a point you want to amplify.

Mr. BEILENSON. I appreciate the commentary of my colleagues here. It is an important committee. We do have important work to do.

I want to be more reassuring than perhaps Mr. Hamilton left you feeling. I think we do a very good job of oversight.

You raised a lot of questions and concerns, and quite properly so. We have a major responsibility. Our relationships with the intelligence community, a peculiar organization, are extremely good at this time. There is a lot of mutual trust, much more so than in the past. It is easier, if I may say so, for me to do my job well than it was for my predecessors.

We have Mr. Bush as President, who is open and accessible and doesn't believe in being overly secretive. We have General Scowcroft at the National Security Council, who is again an accessible person, who talks to us all the time. Most importantly, if I may say so, we have a former judge, Judge Webster, head of the CIA, who is a strong believer in the rule of law, comes over and tells us absolutely everything, probably more than he is required by statute or even the spirit of the law to do, which is something we did not get from Mr. Casey, whom my two predecessors had to deal with.

For the moment, I think we are doing a good job. I think the administration is working well with us. I want Members who are listening to be reassured about that. It is a big job, but I think it is being done quite well at the moment.

Mr. HAMILTON. I agree with that. But rules have to be drafted for situations where those good relationships don't exist.

Mr. STOKES. On that point, I would just say this: Just before my chairmanship ended, we had the change in order. Judge Webster came in over at the CIA. He came in with a determination to change the image of things that had occurred under Casey's directorship. He wanted particularly to be able to restore the confidence of our committee in that agency which had totally eroded under Lee's chairmanship and under part of mine.

He instituted, with me, something I think that Tony still carries on. That is outside the committee, he would come over and share with me and with Henry Hyde, as the Ranking Minority Member, information, as Tony says, he did not have to share. He did it out of a sense of creating between his agency and our committee a very close working relationship and one based upon honesty and forthrightness and candidness. He has continued that with Tony.

That makes a big difference. When you ask him questions, you don't need to be placed in a position such as, "well, you didn't ask me the right question,"—that type of thing. You need to have people who know what you are trying to get at even if you don't ask it the right way and give you what you need to do the proper oversight up there.

Mr. MOAKLEY. I think, so we won't put the rush on anybody, we probably should go down and vote and come back. I appreciate you gentlemen coming back. You have opened a great dialogue. I am learning a lot here. I am sure the other Members are, too.

Mr. BEILENSON. I hope you are not learning too much.

Mr. MOAKLEY. We will come back as soon as we vote.

[A brief recess was taken.]

Mr. MOAKLEY. The Subcommittee on Rules will now come to order.

The Chair now recognizes Jerry Solomon.

Mr. SOLOMON. Thank you, Mr. Chairman.

First of all, let me just commend all three of you gentlemen. We hold you in the highest esteem and greatest respect for the job you did as former chairmen of the select committee and as the present chairman as well.

I have to agree with a lot of what each of you has said and disagree with a little. But I was at first concerned that there seemed to be a consensus among the three of you that there was no problem as far as leaking is concerned and what the end results are.

Certainly my good friend Lee Hamilton clarified that very emphatically when he said the President leaks and so do Members of Congress. That is true. That maybe is a good reason for my bill.

You have a copy in front of you. It establishes a classified information security office. I served for 6 years on the Foreign Affairs Committee, at which time we had many, many, many classified briefings, both in our offices as members of the committee, as you gentlemen did, as well as in closed meetings of the Foreign Affairs Committee. There were all kinds of leaks.

I think we all know what happened back in the mid-1980's when there were untold problems out there, in our military, in the administration, among Members of Congress, in our staffs; and certainly we do have need, I think, for an established classified security office.

Just to get back to the problems, it is so easy to leak classified information. One of the reasons is because the committee, the Intelligence Committee, has grown so big, as has our Foreign Affairs Committee. That is why I do support limiting the numbers that would be on the select committee.

I think Lee Hamilton brings up an extremely interesting question when he talks about a permanent committee. I think that that does make a good deal of sense. I think we ought to either go to a joint committee or to a permanent committee; I think it would certainly be to the benefit of what we are all trying to prevent: That is, classified information getting into other hands.

I don't know if you fellows have had a chance to read my bill or not. Basically, one of the problems with leaks is the fact that most Members of Congress really cannot distinguish between what is classified and what isn't.

I go to a great deal of trouble myself trying to do that; but when you sit in a briefing for 2 hours by Mr. Scowcroft or by Colin Powell or whoever it happens to be and you walk out of a meeting and you start to have an interview with the press, you don't really remember what was classified. If we can't as Members of Congress, how can our staffs who might have had access to that information?

That is why I would really ask you gentlemen to look at this bill and maybe even later on give us your opinion.

Ed Boland, by the way, in the letter you just submitted for the record, strongly supports establishing this kind of classified office to not only provide the storage facilities for information that was given to individual Members of Congress, but also to set up a manual of how we are to act and react, along with members of our staff, so that they are trained in not giving out classified information unintentionally.

I would just——

Mr. MOAKLEY. If the gentleman would yield, if any one of you Chairmen present or former would like to comment, we will keep the record open for you.

Mr. HAMILTON. I think the House clearly needs a regularized system for dealing with classified information. I have not seen Mr. Solomon's proposal until right now. But my initial response, Jerry, is favorable. Something has to be done so that committee chairmen and committee members understand how to deal with classified information. That makes sense to me.

Mr. MOAKLEY. I would hope you would probably look at it carefully.

I am not coming down on one side or the other. I think it is important to have the expertise we have before us to comment on it.

Lou?

Mr. STOKES. I would like to have the opportunity to submit comments for the record.

Mr. MOAKLEY. Absolutely.

Mr. STOKES. I would say in response to one of the things you made an observation on, Mr. Solomon—and you are absolutely right—I found myself in this position of going to an Intelligence Committee meeting. I would sit there and hear about information on different matters. When you come out and you go read a news-

paper, it is difficult to recollect exactly where you did hear this information or data.

The way I solved that was I didn't talk in my district about intelligence. I didn't give the media interviews about intelligence. I said nothing about intelligence to anyone. People understood that I didn't talk about intelligence. That way, I avoided the problem.

Now, I know all people don't approach it in that way. I solved the problem for myself in that way.

Mr. MOAKLEY. If the gentleman will yield, I can see, though, if you come out of an intelligence hearing or the day after, a reporter stops you and asks you a specific question, then you have to go through your mind whether this was classified or not.

Mr. STOKES. That is right. It is impossible to recall.

Mr. SOLOMON. If the gentleman will yield further, you people, as members of that Intelligence Committee, are trained not to say anything in public. But members of the Foreign Affairs Committee, or other Members coming into a briefing of the Foreign Affairs Committee, have no idea how to handle the sensitive information.

Second, they take notes, as we are doing right now, about classified information. What do they do? Do they tear up that information when they leave? They can't take it back to their offices. If they take it back to their offices and it is left there, what is the janitor going to do? The information is there.

That is why I say if we had some kind of secure facility, we would know where to place this information. We may want to recall where we got it from maybe a month later, 2 months later; we can store it in this secure facility and go back and have access to it.

Those are the things I ask you to look at.

Mr. STOKES. Sure.

Mr. HAMILTON. I think Members get very lax. You know, the standing joke around here is, "well, I read it in The New York Times." We just get very lax in the way we handle classified information. I am afraid our staffs do, too. All of us need to be reminded of the proper way to handle it.

I suspect that cannot be done unless we organize classified information in some manner like Jerry suggested.

Mr. MOAKLEY. Tony?

Mr. BEILENSON. I would like to speak generally about this whole subject matter. Security is a problem. Members of our committee take it very, very seriously, especially since we talk about it all the time.

I give a little lecture a couple times a year to everybody, suggesting they don't start talking to the press. A good reporter asks you a question; you answer. He asks you the second question and you don't answer because you shouldn't. It is obvious what your answer would have been. So it is best not to get involved in the first place.

I make a policy myself, as my predecessors did, not to get myself in those situations. I have been successful thus far. I am asked as often as my counterpart in the Senate to appear on TV shows. You don't see me on. You get into deep water very quickly. You start backing off. It is obvious why you are. You shouldn't have gotten into that situation in the first place.

I want to come back to something I want to underscore, however, dealing with the joint committee—the point Lee Hamilton made earlier.

The primary problem, in my opinion, from all of our points of view with respect to our dealings with the intelligence community is not leaks. It is oversight. It is adequate oversight. It is watching, as Lee and Lou pointed out, this multibillion-dollar operation that our little group of members are responsible for to all the rest of you, and through you to the entire country. That is what is basically important.

I will say this—don't misunderstand me or quote me out of context. A few little leaks, if that is what happens—I don't think it is, I don't think we do leak—are worth the price of adequate congressional oversight of this vast intelligence community.

This is a democracy. It is terribly important that we are able to do what we do.

I was stunned recently in conversations with parliamentarians from both Britain and Canada that they have none of the access or oversight capabilities that we do. They don't know the secrets. They don't know the line items in the budget. They couldn't believe we knew. They couldn't believe our DCI, the Director of Central Intelligence, told us some of his deepest, darkest secrets. He is required to keep us fully and currently informed of all substantial intelligence activities.

It is amazing what we do in this country. Other democracies don't have this kind of system. We should keep it as strong as possible.

Let me talk about leaks for just another moment. I don't mean to take too much time, Mr. Chairman, but people are always talking about it, and it is worth talking about.

I don't want people to overreact or react in the wrong way. I think, as a couple of my colleagues, including Mr. Solomon himself, suggested, those committees who don't deal with sensitive information often have a bigger problem than we do. The members don't know.

We make it a point of not repeating anything we have learned in committee, assuming it is all classified, and most of it is, even though we do read about it sometimes in the paper. We are in the situation of not being able to discuss things which all of our colleagues know about—we can't discuss them.

Even 2 years later we are not supposed to discuss them. Most of the stuff the other committees deal with is not that sensitive, is not classified, and they have to talk about it on the floor and wherever else.

Let me tell you about taking notes out of the committee.

If any of us starts walking out of the door of our committee, the staff grabs us and says, "Mr. Chairman, you shouldn't be walking out with that." I have to show them it is a little note to remind myself to call my wife about something, and then they let me take it out.

We are very careful—and I know other committees aren't—because we are worried about this all the time. Other committees don't think in those terms because most of the stuff they deal with is not that classified.

Again, please do not misunderstand my next point, but there are leaks and there are leaks. You should in no way believe or consider that the leaks, however bad they may be, and as I said, don't misunderstand me, are anything like the kind of espionage problems we have had in the 1980's and especially in the year of the spy, 1985 and 1986.

The things that we know about, generally speaking, and certainly the things that are leaked when there are leaks—and I think there are very, very few from our side and a good deal more from the executive branch—but the things that are leaked from anywhere within our Government, even though they shouldn't be leaked, even though it is bad that they are, even though we should be concerned about them, are not, generally speaking, disastrous or terribly costly leaks.

They are generally leaks about large paramilitary, so-called covert operations which we can't talk about and which you guys can, which you know all about, again, because they are in the papers all the time. They are not the terribly sensitive items and methods of operation which result in people losing their lives, result in losing the use of the multibillion-dollar security system on our submarines or something like that which if someone from the NSA or CIA talks about, then we can be in serious trouble.

The truth of the matter is—I hate to say this because it takes away some of the mystique of the service on our committee—most of the things that most of us know would be of no great value, even though we shouldn't and don't divulge them to the Soviets or anybody else. We don't know a lot of the technical stuff. We don't know the names of our agents here and there.

When there are leaks, as there were about Nicaragua, and there shouldn't have been—the gentleman involved shouldn't have said anything; he paid the price, for other reasons as well—but it was not terribly serious to the security of our country that somebody said something about that.

What do we do about these kinds of problems? I think you do the kinds of things we already do, although more seriously. I think you may well do the kinds of things Mr. Solomon is suggesting.

Although having read this the first time myself, you can make it a simpler kind of thing, Jerry. Rather than an entire office, you can assign one or two people, wherever you want—maybe downstairs, with the Sergeant at Arms—to do these kinds of things especially for Members and staff around here who aren't associated with our committee, whose full-time concerns are security risks—when you get to Foreign Affairs, Armed Services Committee, Defense Appropriations, they know a lot of stuff, too. And I don't mean to impugn anybody; some of them just don't do as careful a job as we do.

You don't need to create a joint committee. There may be other reasons for joint committees. Very much as Mr. Boland said on reflection, he used to be for it and after having served here for a number of years, he is quite against it.

You don't create a joint committee to solve the leak problem. A tiny fraction of leaks that come from our Government—and not from some guys bought off, volunteers, who got a lot of money for

giving something to the Soviets—come from the legislative branch. The vast majority come from the executive branch.

There are about 60 people on Capitol Hill who know intelligence secrets—some of our staff don't know them—which, includes our entire professional staff and the total membership of the Senate and the House Intelligence Committees. With a joint committee you can reduce the total membership by 10 or 12, so it would be 48 or 45 people who know secrets. It is not an awful lot of difference.

Meanwhile, in every instance, you have got hundreds of people in the executive branch who know the same secrets; thousands of people over there who know all the covert activities, and you have got a lot of people over there who don't agree with what is going on, people in State and Defense who don't like what the CIA has been asked to do. They think it is going to be done, and that they could do a better job about it. If you talk to your newspaper reporters, their sources are all over there. They are not here.

So I wouldn't cut back on our ability to do adequate oversight, which is our primary and a terribly important responsibility to knock down by 10 or 15 or even 20 the number, to get from 60 or 65 down to 45 or 50, that won't make a bit of difference in the real world. If you want to cut back at all, you ought to do it over in the executive branch, and I am not sure how you go about it, quite frankly.

Again I am not quite sure how dangerous to U.S. security most of these so-called leaks are.

Mr. MOAKLEY. Mrs. Slaughter?

Mrs. SLAUGHTER. Mr. Chairman, my first thought is that I am glad that these three men have chaired that committee. I have enormous respect for them.

There are a couple of things that concern me. My first inclination is not to have a permanent committee, and I think I heard contradicting opinions on that from you.

On the one hand, that it is difficult after you have had a briefing to know and recall what is classified and what is not. Louis dealt with that by just not saying anything to anybody. A permanent committee would perhaps overcome that problem through experience.

On the other hand, I hear that after a while you get a little lax and things get a little loose and staff gets a little more loose, so I think that is a big question as to whether permanence would make one a better Member or not.

My major concern with permanence is, as you pointed out many times, you can't talk to anybody about what goes on and it is done in complete secrecy, from all the rest of us.

The only oversight we have is what you provide. Without impugning anyone's motives, it seems to me we would stand much less chance of running into trouble with developing problematic relationships with the intelligence community if we had rotation.

Now, one other thing you mentioned, Tony, is that the agency people were not always forthcoming. You have been luckier than the other two chairmen, but even at that, all you know is what they tell you, correct?

Mr. BEILENSON. Yes, but you find things out, and you have a lot of authority, most especially budget authority, and they know if

they lie to you and they know if you find out, and eventually we do find out that in a sense you will punish them. If we put them on specific notice—and I think they are very good about that, and they take it at face value.

Mrs. SLAUGHTER. Do you see any ability on their part, because they know that you don't have any other source of information, for them to really give you a piece of goods?

Mr. BEILENSON. I am not concerned about our lack of knowledge about anything we should know about. We can face embarrassment, have egg on our face, but I think they are totally forthcoming with us. I don't think they are holding anything back from us at all, and I think we are practiced enough now that the committee has been in existence for 13, 14 years, even though we have had a big turnover in staff.

Mrs. SLAUGHTER. Is that a serious problem for you, the turnover in staff?

Mr. BEILENSON. No, not at all. In fact, last year we lost four people, each of whom had 12 or 13 years. It was a loss, but we have new people with fresh ideas.

Mrs. SLAUGHTER. Wouldn't that be helpful on the committee as well, fresh ideas?

Mr. BEILENSON. Yes, I think it is good. I am not worried about our not knowing things we should know.

Mrs. SLAUGHTER. Your sense of it then is not to have a permanent committee, and I think yours as well Mr. Stokes. And, Lee, you are leaning in that direction?

Mr. HAMILTON. Well, I think the key question for me is, how do you best perform the oversight function? The key question is not in making a judgment about whether or not you have a permanent committee. There are risks to a permanent committee.

We have developed in the permanent committee structure we have in the Congress today certain relationships among the Members, the lobbyists, and the bureaucracies. That is a very common thing that political scientists comment on. There is a risk here and that has to be weighed.

On the other hand, when you go to a rotating committee, you shift power—you shift power to the staff and you shift power to the bureaucracies. I think that is inevitable, and that is the thing that bothers me.

That is a shift of power in the wrong direction, in my judgment.

Mrs. SLAUGHTER. Would 8 years of tenure——

Mr. HAMILTON. Well, 8 years helps in my view, although very modestly. That is why I support it.

Mr. STOKES. If I might comment a moment. I really think that the matter of a permanent committee is one that ought to be studied carefully and closely and discussed much more thoroughly before we move in that direction.

Mr. HAMILTON. I agree with that.

Mr. STOKES. On its face, it sounds good, and one of the virtues of it would be that you could establish the kind of expertise that would enable that committee to maintain on a continuing basis, the kind of expertise they need to cope with, the expertise of the intelligence community itself, but I think there are some other con-

siderations that ought to be taking place, and we ought to think about it and discuss it very thoroughly.

Mr. MOAKLEY. Mr. Pashayan, any questions?

Mr. PASHAYAN. Thank you, Mr. Chairman. I have none.

Mr. MOAKLEY. I want to thank you gentlemen. It really has been eye-opening. I really appreciate the testimony, and I will be waiting for some of your further statements on some of the other things.

If at any any time you have any other ideas, we would always be receptive to get them from you.

Mr. HAMILTON. Thank you.

Mr. STOKES. Thank you, Mr. Chairman.

Mr. MOAKLEY. The Honorable James L. Oberstar.

STATEMENT OF HON. JAMES L. OBERSTAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. OBERSTAR. Thank you, Mr. Chairman, for holding these hearings on this very important subject, the future of the Intelligence Committee, and for your patience in taking me so late in the day. I was held earlier by markups in the Public Works Committee, where I chair the Subcommittee on Aviation.

You have my statement. I would just like to summarize on two points.

After observing the work of the last three chairmen of the Intelligence Committee, and seeing a succession of 2-year terms and combining that with something else I saw, the rotation of Members of that committee in rather frequent succession, it seemed that we needed more stability in that committee.

I support the rotation concept, and I thought that the Intelligence Committee ought to be in line with the experience and practice and House rules of another rotating committee, the Budget Committee, so I introduced the resolution, House Resolution 258, to provide that where a Member is appointed to the committee in the middle of a Congress, that Member would be able to serve a full three terms, not just two and a half terms or two and some partial term.

And second, that the Chair, at the discretion of the Speaker, be allowed to serve an additional term if, as in the case of Mr. Beilenson, that chairmanship should come in the last of the 2 years of service on the committee. It doesn't make sense to rotate the Chairman off just when that person is becoming productive in the chairmanship.

Those are the two changes that I would suggest. They are not plowing new ground. It is not a radical new idea. It is a rather modest proposal, one that seemed to me to make a lot of practical sense.

We have already had experience in the Budget Committee with that same concept. It has worked very well, and I think it ought to apply to the Intelligence Committee.

[Mr. Oberstar's prepared statement follows:]

PREPARED STATEMENT OF HON. JAMES L. OBERSTAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. Chairman: I am very pleased to have this opportunity to testify before the Subcommittee on Rules of the House on changes in the rules of the House of Representatives concerning the duration of service on the House Permanent Select Committee on Intelligence.

Last year, I introduced H. Res. 258, a resolution to make technical changes in clause 1 of rule XLVIII (48) of the House of Representatives so that the terms of members of the Select Committee would end at the end of a Congress, not at in the middle of a session if a Member was appointed to fill a vacancy during the middle of a Congress. This resolution does not introduce any new principles into House rules, but rather provides that the rotation rules governing the Permanent Select Committee on Intelligence conform to the rules in every respect of a similar House rotating committee, the House Budget Committee.

Mr. Chairman, these technical changes are needed so that the terms of service do not expire at odd times. In the past, several Members have been appointed to the Permanent Select Committee on Intelligence to fill vacancies during the middle of a Congress. The current rule requires that these Members must rotate off the Select Committee in the middle of legislative business during a Congress after 6 years of service, and new Members must be appointed. This results in a disruption of the important work of the Select Committee.

My proposal provides that service on the Permanent Select Committee on Intelligence for less than one full session of a Congress would not count against a Member's total period of eligibility; this provision is similar to the rule governing service on the Budget Committee. Thus, Members appointed after the beginning of a second session of a Congress would have their three terms of service begin with the following Congress.

Also identical to the rules of the House concerning the House Budget Committee, H. Res. 258 requires a mandatory rotation off the Permanent Select Committee on Intelligence for a specified period. Members should be able to serve for a maximum of three Congresses out of any period of five successive Congresses. I believe that a rotation off the Select Committee is desirable in order to give a variety of Members the opportunity to serve and gain experience in the intelligence area.

H. Res. 258 also permits Members on the Permanent Select Committee who have been appointed by the Speaker as chairman or ranking minority member for their third and last term of service to extend their service for an additional Congress at the Speaker's discretion. This would provide greater continuity in leadership on the committee, and again this provision is similar to the rule governing the Budget Committee.

I understand that there are other proposals to make changes in the rules concerning the duration of service on the Permanent Select Committee on Intelligence, and I want to state for the record that my technical changes could certainly be incorporated into any other proposal. My intention is merely to provide greater continuity concerning service on the Permanent Select Committee, and my proposal should not preclude action on other proposals for change.

Again, thank you for the opportunity to present my testimony. I will be pleased to answer any questions that the members of the subcommittee may have.

Mr. MOAKLEY. Mr. Oberstar, there has also been testimony here that appointments to the Intelligence Committee should continue to be made directly by the Speaker rather than the Steering and Policy Committee, because he would be subjected to less pressure.

Do you think the appointment should remain the way it is, in the hands of the Speaker?

Mr. OBERSTAR. As long as this is a rotating committee. There is one difference in this rotating committee from Budget where it is a very unique kind of service, and I think that ought to stay in the hands of the Speaker. This is a leadership committee. It involves very sensitive matters, and the idea was to have a group of senior Members or at least have a very strong mix of senior Members of Congress serving on this committee who could exercise a broad range of judgment from experience on intelligence matters. And I think it ought to stay in the hands of the Speaker.

There is very clear accountability. I think accountability is very important in this committee, and with appointment by the Speaker, there is no question about who is accountable for what.

Mr. MOAKLEY. What if it were made a permanent committee. Would you say the same?

Mr. OBERSTAR. My feeling is that three terms is sufficient. If you go to four terms, you might as well make it a permanent select committee, and again I think that that probably ought to stay with the Speaker, maybe nominated by the Speaker and approved by the caucus, as the Rules Committee is. But that is still a leadership committee, and I think it still would need accountability.

I don't think you want to throw this open to having challenges on the floor, voting and so forth, on the floor of the caucus.

Mr. MOAKLEY. Mr. Beilenson, any questions?

Mr. BEILENSON. No.

Mr. MOAKLEY. Mr. Solomon?

Mr. SOLOMON. We appreciate your coming to testify.

Mr. MOAKLEY. Thank you.

The Honorable Henry Hyde.

You are testifying now because Mr. Solomon knows how busy you are with your other ongoing legislation, he decided to give you his spot.

Mr. SOLOMON. I am yielding to my great friend.

STATEMENT OF HON. HENRY J. HYDE, RANKING MINORITY MEMBER, PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. HYDE. My interests are not unknown to you. I mentioned them before. I have four initiatives pending.

And first of all, Mr. Chairman, I am more than a little pleased that you did live up to your commitment, which I knew you would, to provide a hearing on these issues. I would have liked, frankly, to bring in some witnesses.

I can say that every living former Director of Central Intelligence supports my proposal of a joint committee, and I would like to have presented them, but nonetheless, I am pleased with what we have.

I have long been concerned about leaks. I am not naive enough to think that only Congress leaks. I know more leaks come from the executive branch because there are more people there. Leaks come from the private sector, but we can't do much about them other than tighten our laws and urge the Attorney General to prosecute. But we like to keep our own house clean, and we ought to concern ourselves about serious leaks.

Now, I know there is a tendency to minimize leaks in the House. I have a book this thick of leaks, and unfortunately it is classified. That is to say, if I were to tell you right now of the leaks that I know about that are serious, I would probably be violating security because in confirming that such and such was a leak and is accurate, I am violating security.

But many occasions occur where we, as politicians, who live by the spoken word, live and die by press releases and relationships with media are natural vendors of inside information, and so, we

can have a problem. I think our first concern ought to be at least trying to stem the leaks for which our House is responsible.

I think it is important in the intelligence business to reassure third countries that the information they give us is secure, because we won't get their cooperation if we can't keep a secret.

Now, the steps I have proposed in an effort to do this are rather simple. It involves reducing the size of the Intelligence Committee. The fewer the people in the loop, the fewer opportunities for leaks. Or alternatively, I propose a joint intelligence committee, and having a House security clearance system established for Intelligence Committee members and staff, as well as the more immediate and easier measure of instituting secrecy oaths for the committee's members and staff.

I think that these steps will do two things. They will reduce the number of Members with ready access to sensitive intelligence without degrading oversight capabilities, and they will help the committee develop a more vigilant frame of mind about constantly protecting that information.

I believe a combination of these steps will significantly encourage the executive branch to be more candid in sharing classified information with the streamlined House Intelligence Committee and even more so with a joint committee.

Under House Resolution 279, beginning with the new Congress, the 102d, the size of HPSCI would be reduced from 19 members at current to 13 members. Of those 13, not more than 7 could be appointed from the same party. This would return HPSCI to its original 1977 size. And I am informed Eddie Boland supports that even now in a letter to you. [See p. 21.] And more importantly, by decreasing the size, it is axiomatic we would reduce the mathematical probability or possibility of leaks, whether inadvertent or not.

By waiting to implement this reduction in membership until the beginning of the new Congress, it can be done painlessly, without forcing any sitting member of HPSCI to leave the select committee before the expiration of the maximum term of 6 continuous years. At the end of the current Congress, the terms of seven existing members expire, five Democrats and two Republicans.

Under my proposal, the reduced 13-member HPSCI membership would be apportioned in a ratio of seven majority and six minority members, and the reason for this is to maximize the degree of nonpartisanship, if not bipartisanship, in the very sensitive field of congressional oversight. A 7:6 ratio among majority and minority membership on the select committee would go a long way, I think, towards achieving a nonpartisanship or bipartisanship.

Now, my proposed amendments to Rule XLVIII would also establish a formal oath of secrecy to be taken by HPSCI members and committee staff. The members and the staff of the select committee would simply pledge not to disclose, directly or indirectly, to any unauthorized person any classified information received in the course of their committee duties without the formal approval of the committee or the House.

There is a clear precedent for this from the earliest days of our Nation. The wording of the oath is substantially the same as that taken by the members and staff of the Committee on Secret Corre-

spondence of the Second Continental Congress. It was good enough for Ben Franklin, and it probably is good enough for us.

Last, my proposed change in Rule XLVIII would prohibit any member or staff member of HPSCI from having access to classified information through his position with HPSCI unless and until that individual had been granted a security clearance by the entity or officer of the House authorized to grant security clearances.

This security clearance requirement for HPSCI members and staff would not take effect until the beginning of the next Congress more than 6 months from now. This would give the Rules Committee ample time to fully consider the details of how security clearances are to be programmed.

The legislation I have introduced, H.J. Res. 8, and which has 102 bipartisan cosponsors, to establish a joint intelligence committee in lieu of the existing House and Senate committees, I think is worthy of considerable thought.

The Iran committees furnished one of the freshest and most instructive examples of this principle. Those committees, containing 26 members plus numerous staff, had their own leak problem, so when it came time for the preliminary interview of Admiral Poindexter, the committees took extraordinary measures to protect his testimony from being leaked.

They limited access to their preparatory interview or deposition of Poindexter to just three professional staff members. I wonder if they weren't, by some Freudian way or other, indicating that they really didn't trust the members and the staff, and rightly so.

I say that as a member who was barred from visiting the Admiral, but we knew that he was the key——

Mr. MOAKLEY. Maybe you can visit him now.

Mr. HYDE. I may visit him, depending on where they send him. If it is too far away, I won't.

We have spent $28 million to get him and North, and I am not so sure that is the wisest or best use of tax dollars. But I digress.

Instead of the 34 Representatives and Senators who have regular access, as members of the two select committees, to sensitive information, we would have 18, slightly more than half as many. I think this would institutionalize much closer cooperation between the Senate and the House in an area where such coordination is especially important.

A joint committee would remove any temptation which may exist for the executive branch to try and play off one House against the other.

It would streamline legislative oversight and reduce the burden on senior intelligence officials of appearing before some committees. These people must come before the House committee, the Senate committee, the Appropriations Committees, the House and the Senate, Armed Services of the House and Senate, and they spend most of their time testifying.

If we had one joint intelligence committee, we could focus on problems with an intensity that otherwise is not available and be of assistance to the agencies.

The joint committee, as I say, is supported by all living DCI's, and I have attached to my statement, which is much more fulsome than my testimony, I regret to add, but the staff can look at it and

fill in the blanks of what I am saying. I do include letters from former CIA Directors Richard Helms, Stansfield Turner, and William Colby. [See p. 61-65.]

The creation of a joint committee was the single recommendation from the legislative branch by the Tower Commission, composed of John Tower, Ed Muskie, and General Scowcroft; and such influential figures as Mike Mansfield, Bob Dole, Sam Nunn, Alan Dixon, Bob Michel, Howell Heflin. Lee Hamilton, in an earlier time, filed a joint bill. Dante Fascell, at an earlier time, and Howard Baker, at one time or another, favored the idea.

Eddie Boland at one time favored the idea, but he has been vacillating lately, and I haven't had a chance to talk to him and argue it out.

Former Senator Barry Goldwater grew so concerned about the leak problem that he has now become an ardent proponent of a joint intelligence committee.

The other principal argument offered against a joint committee is that smaller membership would mean degraded oversight. I think we recognize more members doesn't automatically equate with having better oversight and legislation.

Your committee, Mr. Chairman, has a comparatively small membership, but most of us agree it is quite effective in the demanding job of determining which issues will receive floor consideration and under what procedures.

By the way, DCI William Colby wrote in his memoirs that every covert action disclosed to Congress in 1975 was leaked. I don't think things are an awful lot better now.

A few critics have suggested that a joint committee undercuts the hallowed principle of bicameralism. Intelligence activities are different. They are unique by nature, and they have never been subject to precisely same degree of free and open consideration in both Houses as have legislative issues.

We would have exclusive—the joint committee—exclusive legislative jurisdiction over all intelligence activities of the Government and over authorizations for its intelligence components.

The details of the committee are spelled out, and I won't burden you with them now. Tenure on proposed joint committee would be limited to 6 years of continued service. I have listened to some remarks made about extending the tenure of members, and I am indifferent on that.

I like the idea of rotating, however. Appointment to these committees has become a sinecure. It used to be something maybe not a lot of people sought. Ever since Iran-contra, people want to get on these committees, and the Speaker likes to appoint people, to fulfill a political obligation, as does the minority leader, so a permanent committee might interfere with that.

I think, Mr. Chairman and Mr. Beilenson, if I may indulge in the last paragraph, Mr. Chairman, let me conclude by emphasizing that now is the time for this committee to take a forward-looking and eminently responsible position on these matters.

I urge the committee to carefully consider and perfect these valuable reform proposals, and bring them to the floor for consideration by the House.

The legislative process will benefit. They will enhance the reputation of Congress with the American people and enhance our capability to promote our national interests in a dangerous and uncertain world.

I thank you very much for your attention, and I ask permission to leave a statement with enclosures.

Mr. MOAKLEY. Without objection, the gentleman's entire statement will be made a part of the record.

[Mr. Hyde's prepared statement and other material follow:]

PREPARED STATEMENT OF HON. HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman and distinguished members of the committee, thank you for this opportunity to discuss some logical and useful changes in House Rule XLVIII (*House Rule 48*) as well as legislation for the creation of a joint intelligence committee. As you know, I have long been concerned with the problem of "leaks" of classified information. It is a governmentwide problem. This is due, in part, perhaps to the fact that too much information may be classified. This may encourage Government officials and employees to be too casual about classified information, even in the vast majority of cases when it is quite properly classified. In any event, the ever-growing list of leaks of classified information has led me to conclude that we must begin to take steps to reduce the incidence of leaks right here in our own back yard.

I have no wish to spark an unproductive debate on which branch of our Government is responsible for the most leaks, or which has the highest percentages of leaks based on the number of its personnel with access to classified information, or which is responsible for the most serious or damaging leaks. Instead, as Members of the House, I think our first concern ought to be to take every reasonable measure to reaffirm and strengthen our commitment to reducing the likelihood of leaks from congressional sources. Now, I certainly have no intention of engaging in recriminatory speculation about individual cases. However, none of us has to think very hard to recall instances of alleged leaks from congressional sources. Some of those alleged disclosures in recent years have been reported in the press and widely discussed.

Of course, public commentators and foreign allies very often do not make fine distinctions as to which House of Congress may have been the source of a leak of classified information, let alone which specific committee may have been involved. Therefore, leaks by any Member or committee may hurt the reputation of Congress as a whole in the eyes of those whose vital cooperation in promoting U.S. policy interests is contingent on their confidence in our discretion. This is especially the case when it comes to important intelligence relationships with sensitive foreign assets or intelligence services. Those individuals may have a great deal at risk if their confidential cooperation or sensitive intelligence information shared with our Government is leaked from congressional sources whose position in the legislative branch has made them privy to that knowledge.

That is why the place for the House to start publicly demonstrating to the American people a greater commitment to protecting classified information is with the Intelligence Committee, because it has sweeping access to the most sensitive kinds of classified information. The steps I have proposed for the next Congress of reducing the size of the Intelligence Committee, or alternatively creating a joint committee, and of having a House security clearance system established for the Intelligence Committee members and staff, as well as the more immediate measure of institution secrecy oaths for that committee's members and staff, will do two important things. First, they will reduce the number of Members with ready access to sensitive intelligence information without degrading oversight capabilities. Furthermore, they will help the committee develop a more vigilant frame of mind about constantly protecting that information. The importance of this second point should not be minimized. Nearly all of us come to the Intelligence Committee with no background experience with sensitive intelligence matters. By the nature of our profession we are political animals conditioned to speak out in public discourse and to actively seek the attention of the press to our views. it requires serious and continuing effort to sort out and compartment in our minds the intelligence information we acquire by virtue of our duties on the Intelligence Committee and to resist the temptation to make a difficult point in the heat of public debate by borderline allusion to that special intelligence information.

Our intelligence officers will be able to point to these measures if adopted to help them give more persuasive assurances to an ally whom they are trying to convince to be more candid in sharing important information or to be otherwise discreetly helpful. It will also set a good example in these matters for other committees and Members, for the Senate and the executive branch. In addition, I believe that taking a combination of these steps will significantly encourage the executive branch to be more candid in sharing classified information with a streamlined House Intelligence Committee, and even more so with a joint committee. That will help to make the committee's intelligence oversight activities more thorough and effective.

Now, let me summarize my proposed changes to Rule 48 envisioned in H. Res. 279 and H. Res. 269:

Under H. Res. 279, beginning with the new Congress, the 102d Congress, the size of HPSCI would be reduced from the current 19 members to 13 members. Of those 13, not more than 7 could be appointed from the same party. This would return HPSCI to its original size in 1977. More importantly, by decreasing its size, it is axiomatic that we would reduce the mathematical probability of leaks, whether inadvertent or not, of the sensitive classified intelligence information which is the particular "stock in trade" of HPSCI. It is obvious that the more people who have access to any particular piece of classified information, the greater the chance that one of those individuals will suffer a momentary lapse of memory or self-discipline and leak it. Further, by waiting to implement this reduction in membership until the beginning of the new Congress, it can be done painlessly without forcing any sitting member of HPSCI to leave the select committee before the expiration of the maximum term of 6 continuous years of membership. The required reduction of 6 slots, from a total of 19 now to a new total of 13, can be readily accomplished because at the end of the current Congress, the terms of 7 existing members expire—5 Democrats and 2 Republicans.

Under my proposal, the reduced 13 member HPSCI membership also would be apportioned in a ratio of 7 majority and 6 minority party Members. It has long been established that the intention of the House in creating HPSCI was that this special select committee should, as much as possible, be nonpartisan. That has not always proved possible, let alone easy, on all issues and in all staffing matters. Nevertheless, it is a wise principle to seek to maximize the degree of nonpartisanship in congressional oversight in the very important and highly sensitive realm of American intelligence interests and activities. A 7:6 ratio between majority and minority membership on the select committee will go a long way toward promoting a nonpartisan, or at the very least bipartisan, approach to this vital area, yet it will ensure the majority leadership the one-vote margin necessary to retain ultimate policy control over committee activities. Our former colleague, Eddie Boland, HPSCI's first chairman, told a number of us last year that his preference when HPSCI was established was to have parity in the membership ratio. However, at the time, other Members of the Democratic leadership disagreed. I think he was right.

My proposed amendment to Rule XLVIII (*Rule 48*), contained in H. Res. 279, would also establish a formal oath of secrecy to be taken by HPSCI members and committee staff. In the proposed oath, members and staff of the select committee would simply pledge not to disclose, directly or indirectly, to any unauthorized person any classified information received in the course of their committee duties without the formal approval of the committee or of the House. A signed individual copy of the oath would be kept with the records of the House and also recorded in the *Journal of the House* and in the *Congressional Record*. This proposed oath will add greater weight and solemnity to the serious commitment of HPSCI members and staff to be vigilant in safeguarding classified information received in the course of their committee duties. Not only will taking this oath serve to underscore these profound responsibilities to protect sensitive classified intelligence information in our own minds, this commitment will be publicly acknowledged by its publication in the *Congressional Record*. That will further enhance the reputation and lend greater dignity to the public image of the House. It will serve as a clear example of high level legislative oversight commitment which will hopefully be emulated by other committees of the House and Senate.

Moreover, there is clear precedent from the earliest days of our Nation for such a solemn oath of secrecy. In fact, the wording of the oath I propose is substantially the same as the oath required to be taken by members and staff of the Committee on Secret Correspondence of the Second Continental Congress. Frankly, if this oath was good enough for such Revolutionary War heroes as Benjamin Franklin, I don't see why it should cause us any serious concern. I remind all my colleagues that each of us takes an oath at the beginning of each Congress, and nobody balks at that. It certainly is not intended, nor do I think it will be publicly viewed, as imply-

ing any ethical shortcomings among members of the committee or Members of the House at large.

Clause 7 of Rule XLVIII (*Rule 48*) would also be amended to refer specifically to violations of the oath of secrecy in the provisions of the rule regarding unauthorized disclosures by any Member, officer or employee of the House which the Ethics Committee is required to investigate. HPSCI would be specifically authorized to refer cases of unauthorized disclosures and violations of the oath to the Ethics Committee. This would make clear that the existing rule does not require HPSCI to wait for the Ethics Committee to figure out for itself that a potential violation may have occurred and request specific information from HPSCI. While an investigation of such an apparent violation of the oath or unauthorized disclosure rules is pending, HPSCI could determine by majority vote whether to suspend the privilege of the Member who is the subject of the inquiry to have access to classified information. If it is ultimately determined that a Member has violated his oath, he would be permanently expelled from membership on HPSCI. A committee staffer found in violation would be permanently terminated from any employment with HPSCI. In either case, the House could also take any additional action it deems appropriate.

Last, my proposed changes in Rule 48, contained in H. Res. 279, would prohibit any member or staff member of HPSCI, starting at the beginning of the next Congress (January of 1991), from having access to classified information through his position with HPSCI unless and until that individual has been granted a security clearance by the House or a committee, other entity, or officer of the House authorized by it to grant security clearances. The House security clearance program I envision the Rules Committee creating would utilize standards and procedures comparable to those employed by the executive branch, but with the flexibility to accommodate any special considerations or circumstances of legislative branch operations. Under the guidelines contained in H. Res. 269, introduced by my colleagues Mr. Solomon and Mr. Edwards of Oklahoma and myself—and incorporated by reference in my proposal, H. Res. 279—HPSCI Members and staff would submit a personal history statement to the entity or officer of the House charged with responsibility for the security clearance program. A background or full field security investigation would be undertaken, the scope of which would generally depend on the level of clearance appropriate for access to the particular level and category of classified information involved. Flexibility would be permitted to grant interim clearances, if necessary, while applications for regular clearances are pending. A House security clearance could also be granted to a HPSCI member or staff applicant who has held a recent clearance from the executive branch.

Also, in keeping with the guidelines enumerated in H. Res. 269, if during a security investigation, significant information is developed that an individual, while a Member, officer or employee of the House, has made an unauthorized disclosure of classified information, that investigative information would be reported to the Ethics Committee. Otherwise, the results of security investigations should be kept confidential unless the subject consents in writing to the disclosure of such information. Similarly, any decision to grant, deny, review, or withdraw a security clearance would be kept confidential except that such information could be disclosed to a committee or executive branch agency with a valid need to know whether the subject of the security clearance action has a clearance authorizing access to classified information to which that committee, department or agency is considering granting access. Such a decision could, of course, also be disclosed with the consent of the subject of the decision.

Last, the guidelines in H. Res. 269 require the inclusion in a House security clearance program of appropriate procedures for the review and appeal of decisions to deny or withdraw clearances. In the case of Members, those procedures must include an opportunity for an affected Member to appeal such a decision to the House.

This security clearance requirement for HPSCI members and staff under H. Res. 279 would not take effect until the beginning of the next Congress, more than 6 months from now. That would give the Rules Committee ample time to fully consider the details of the House security clearance program called for, to hold additional hearings if you think that advisable, and to prepare the necessary package of modifications to the House Rules for when the new House in the 102d Congress adopts its rules at the beginning of its first session.

This security clearance program would raise the House's consciousness of the very serious responsibilities arising from the need for access to sensitive classified information by our special intelligence oversight committee. It would be a model that would encourage a more actively cautious mindset by all Members to guard against leaks of classified information entrusted to us. A more formal and organized system for the issuance, periodic review and renewal of security clearances will especially

help those of us with the special responsibilities associated with HPSCI membership, or hopefully 1-day membership of a joint intelligence committee. It will encourage stronger habits of caution in what we say publicly about matters before that committee, providing an extra inner brake on the natural inclination to be communicative, which is inherent in the public discussion and debate of the legislative branch. Moreover, this limited requirement of House security clearances for HPSCI members and staff can serve as a "pilot" program which will provide us with valuable experience to enlighten any future considerations of a security clearance program for other members and staff who have access to classified information.

Let me turn now to H.J. Res 8, legislation which I introduced, and which has 102 bipartisan cosponsors, to establish a joint intelligence committee, in lieu of the existing House and Senate select committees. Of course, the same principal arguments that apply to my proposal to reduce HPSCI to its original size of 13 members would apply with even greater force to the creation of a joint committee. By significantly reducing the total number of persons in Congress with access to sensitive intelligence information, we reduce the potential pool of people who may, inadvertently or otherwise, leak such classified information. The Iran Committees furnished one of the freshest and most instructive example of this principle. Those committees, containing 26 members plus numerous staff, had their own leak problems. So, when it came time for the preliminary interview of Admiral Poindexter, the committees took an extraordinary measure to protect his testimony from being leaked before his appearance. They limited access to the preparatory interview of Poindexter to just three professional staff members. That limitation on access had the desired effect, and the contents of Poindexter's interview were protected for the 2-month period prior to his public testimony. Therefore, instead of the 34 Representatives and Senators who have access as regular members of the two select committees, under H.J. Res. 8 the joint committee would have 18, slightly more than one-half as many. As I indicated earlier, this would promote greater confidence and encourage greater candor by the executive branch. That translates to a better information base for the joint committee's legislative deliberations and oversight activities. As our demonstrated willingness to take meaningful steps to reduce the chances for leaks, such as creation of this joint committee, becomes more widely known, foreign intelligence services and third country sources can be expected over time to be more candid and cooperative with our intelligence agencies on matters very important to our national interests. But a joint committee offers other benefits, too. It would institutionalize much closer cooperation between the Senate and House in an area where such coordination is especially important in the demanding task of closed-door oversight of sensitive and necessarily highly secret intelligence activities. In this regard, a joint committee would remove any temptation which may exist under the current arrangement for the executive branch to try to play off one House against the other.

A joint committee would streamline legislative oversight and thus reduce the burden on senior intelligence officials of appearing before two separate committees. It would simplify the reporting required by law of significant intelligence activities. At a time when budgets are tight and every year we face the specter of sequestration under Gramm-Rudman-Hollings, creation of a joint committee would give us a cost savings by eliminating duplicative equipment and supply needs and by the reduced salary needs from having fewer staff. Of course, in the latter case, to avoid undue disruption of individuals' lives, the reduction in the staffs of the two present committees might have to be phased in over time, relying to a large extent on attrition. As a rough and conservative estimate, I believe Congress could save in the range of about $1.5 million over the total annual costs of the two separate committees.

For some or all of these reasons, the joint committee idea is supported by all living former DCI's. I have attached to my statement copies of letters of endorsement from former Directors Helms, Turner and Colby. Moreover, the creation of a joint committee was the single recommendation for the legislative branch by the distinguished bipartisan Tower Commission, composed of John Tower, Ed Muskie and General Brent Scowcroft. In addition, such influential figures as Bob Michel, Mike Mansfield, Bob Dole, Sam Nunn, Alan Dixon, Howell Heflin, Lee Hamilton, Dante Fascell, Bill Broomfield and Howard Baker have all, at one time or another, favored the idea. Our former colleague, Eddie Boland, the first chairman of HPSCI, at the time of its creation said on the House floor that he hoped it ". . . will lead, in the not too distant future, to the creation of a joint House-Senate Committee on Intelligence." He continued by saying, " I have always favored this particular option . . .". During the same floor debate, on the resolution which created HPSCI,

the respected and distinguished Rules Committee chairman, Richard Bolling, echoed the same sentiments when he said, "It is hoped that over time it will be possible to move ahead in the direction of having a joint committee with the Senate." Once a foe of the joint committee idea, after his service as chairman of the Senate Intelligence Committee, former Senator Barry Goldwater grew so concerned about the leak problem that he has become an ardent proponent of a joint intelligence committee.

Despite the advantages of and widespread support for a joint intelligence committee, having sought hearings on legislation on this subject continuously for 6 years before today's hopeful event, I know there are those who are unpersuaded. My feeling is that in substantial part this is a result of the institutional inertia which characterizes any long-existing governmental entity.

Some detractors argue we don't need it because Congress doesn't leak as much or at least any more than the executive branch. That is arguable, but it's not a productive argument for either side. There is no definitive way to measure and compare, both quantitatively and qualitatively, the problems of leaks of intelligence information by the legislative and executive branches. It is difficult to determine with any degree of assurance the source of most leaks. There is no methodology for determining how many less of a more serious nature. Of the probably two or three so-called studies or analyses of the sources of leaks, all were quite limited, and none could claim to be scientific or based on a statistically valid sampling methodology.

With respect to classified information generally, it is certainly true that more executive branch personnel have access than do those in the legislative branch, as the former has far more personnel. However, as we focus our attention on the more sensitive intelligence collection activities and covert actions, the numbers of individuals in each branch with enough knowledge to really be aware of any such activity are not that far apart. In testimony on the so-called "48 hour notice bill" in the 100th Congress, General Scowcroft confirmed that relatively few persons in the executive branch have real knowledge of most covert actions, and the executive branch record for protecting that information is generally good. In addition, in the past 2 or 3 years, the executive branch has taken steps to cut back significantly on the number of its personnel with security clearances and access to classified information. In any event, I don't see the logic of an argument that says we don't need to do anything to clean up our own house as long as anyone else's house has mud on the floor. This "lowest common denominator" approach is a poor standard for responsible behavior in such a serious area as the protection of sensitive national security information. I think the American people have a right to expect a greater degree of commitment from elected officials at our level. Moreover, this sort of "but he hit me first, Dad" line of reasoning overlooks the troubling fact that from time to time Members of both Houses have asserted an individual right to leak classified information if they disagree with an intelligence operation or policy. The previous Speaker of the House himself publicly made an assertion of that nature before his resignation.

The other principal argument offered against a joint committee is that the smaller membership of the single committee would mean a degraded oversight capability. However, I think we can all recognize that having more members doesn't automatically equate with having better oversight and legislation. If that were true, we would want to make all committees as large as the appropriations Committee. The Rules Committee itself has a comparatively small membership, but most of us would agree that it is quite effective in the demanding job of helping to determine which issues will receive floor consideration and under what procedures. If one accepts the view that the more committees you have asking questions and "overseeing" the more likely you are to have effective oversight, then that argues for a return to the pre-1977 arrangement of having eight House committees or subcommittees involved. But few of us who recall that period feel it was any model of effective oversight. This is the very period about which former DCI William Colby wrote in his memoirs when he said that every covert action disclosed to Congress in 1975 was leaked. In fact, I would argue that in the unique realm of intelligence oversight, a single joint committee would focus oversight responsibility more sharply. It would increase the incentive for individual Members to develop greater expertise and take advantage of the greater opportunities which its smaller numbers give to take an active role in oversight.

A few critics suggest that having a joint committee instead of two separate ones somehow undercuts the hallowed principle of bicameralism. However, intelligence activities by their nature are unique. They have never been and cannot be subject to precisely the same degree of free and open consideration in both Houses as regular legislative issues. Moreover, there is no reason to believe that the House and Senate members of a joint committee would cease to represent the particular institutional

interests and viewpoints of their respective Houses. In effect, the joint committee arrangement is analogous to an open-ended conference committee. Last, of course, the Constitution does not require that either House have any committees at all. That is left for Congress itself to determine.

Now, I would like to briefly summarize the main provisions of H.J. Res. 8. For the most part, it maintains the House procedural requirements under existing Rule XLVIII (*Rule 48*) with the minimal modifications necessary to adapt those requirements to the joint committee context. As I summarize the provisions of H.J. Res. 8, I will try to point out the more significant differences with Rule 48. As you will have noticed, consistent with the appropriate, traditional comity between the two Houses of Congress, I have not sought to include in H.J. Res. 8 specific conforming changes in the Standing Rules of the Senate. Once H.J. Res. 8 has passed the House and is sent to the Senate, provisions to modify the rules of the other body could be added during committee or floor consideration in our sister forum.

The proposed joint intelligence committee would have exclusive legislative jurisdiction over all intelligence activities of the Federal Government and over authorizations for its intelligence components, the same ones currently enumerated in Rule 48. The committee would be composed of 9 Senators and 9 Members of the House, for a total of 18 appointed members, one fewer than the number of appointed members on the existing House Permanent Select Committee on Intelligence (HPSCI). The majority and minority leaders of each House would be ex officio members. The majority party in each House could appoint not more than five of the nine joint committee members from that House. This would reflect the special need for bipartisanship, indeed, even nonpartisanship, in the highly sensitive national security field of intelligence activities. It would nevertheless maintain the policy control of the majority in each House over its respective membership component on the joint committee. Indeed, this is currently the way party ratios are set for the Senate Select Committee on Intelligence (SSCI) where the majority party has a one-vote advantage. The majority leadership in the other body has apparently suffered no ill effects from this long standing arrangement.

Each House must appoint at least one, but not more than two members from each of four "crossover" committees: Appropriations, Armed Services, Foreign Affairs/Relations, and Judiciary. As Members will recognize, these are the same committees from which "crossover" Members must be appointed to the existing House and Senate intelligence committees.

Just as under the present House Rule XLVIII (*Rule 48*), tenure on the proposed joint committee would be limited to 6 years of continuous service, except that the initial appointees from each House would be divided into three classes whose original terms would be 2, 4, and 6 years, respectively. This is necessary to stagger the rotation of replacement members onto the joint committee to afford some measure of continuity.

Of course, the current Senate rules permit Intelligence Committee members tenure of up to 8 years of continuous service. If this committee does mark up H.J. Res. 8, you may wish to follow the Senate model. By their very nature, the information and issues with which members of any intelligence committee must deal are ones to which Members may have had little, if any, exposure prior to their appointment. In my experience and observation, it takes most Members perhaps nearly the first 2 years of their service to gain enough understanding of intelligence activities and information for truly effective participation in the legislative and oversight process. Therefore, if the Rules Committee and the House continue to believe that rotation membership has more benefits than drawbacks for the legislative branch—a question in need of thoughtful review—perhaps it would be more rational to permit Members to have up to 8, rather than 6, years of continuous service.

The joint committee would have a chairman selected from the committee membership from one House and a vice chairman selected from the other House's committee members, alternating annually. The House Members would select the chairman in odd-numbered years; and the Senators on the committee would select the chairman in even-numbered years. This arrangement minimizes to the fullest extent possible the chance that the joint committee's chairman at any given time will suffer the serious distraction and political pressure of being up for re-election during his chairmanship.

The joint committee would be authorized to sit and act at such times and places as it deems appropriate and be given subpoena powers to require the attendance of witnesses and the production of documents. The joint committee may make whatever rules for its own internal organization and procedures it considers necessary. However, no recommendations may be reported unless a majority of its members agree. Ten members of the joint committee would constitute a quorum. The ex offi-

cio leadership members would not have a vote or be counted in establishing a quorum. Joint committee expenses would be evenly divided between the contingency funds of the House and Senate.

The provisions of H.J. Res. 8 with regard to permitting other Members of Congress to attend joint committee meetings or have access to information are nearly identical to the provisions of House Rule 48 on the subject, with two principal differences. H.J. Res. 8 does not take into account the new "Speaker access" authority incorporated in Rule 48 only last November. I would, however, welcome having that provision included during committee markup. The other difference is that under H.J. Res. 8, classified information in the joint committee's possession would be made available, under the joint committee's rules, to Members of Congress who are not on the committee if they have an "appropriate" security clearance "as determined by the joint committee." H.J. Res. 8 predates my other resolutions before the committee today, which specifically deal with what I consider sort of a pilot House security clearance program mandatory for members and staff of HPSCI, but voluntary for other House Members, employees and officers. The language of H.J. Res 8 which I noted leaves the proposed joint committee very broad discretion to determine what it considers to be an "appropriate" security clearance. Existing Rule 48 is similarly broad. Clause 7(c)(2) of that House rule requires HPSCI to make classified information available to other Members ". . . under such regulations as the committee shall prescribe . . .". While it has never done so, theoretically HPSCI could prescribe Member access regulations which required some type of security clearance. Similarly, the joint committee could theoretically "determine" that election to Congress itself is tantamount to having a security clearance. However, this language anticipates a rational legislative branch system or procedure for granting security clearances to Members, officers and employees of Congress. Thus, it would dovetail quite appropriately with proposed congressional security clearance systems whose main points Mr. Solomon, Mr. Edwards of Oklahoma and I have outlined in some detail in H. Res. 269, or with some similar proposal. Indeed, a House security clearance system which called for such clearances for House Members and staff of a joint intelligence committee would provide a powerful impetus for the Senate to follow suit or even to create a single joint congressional security clearance system.

H.J. Res. 8 contains provisions for the public disclosure of information which are nearly identical to the procedures required under current House Rule 48. The only significant difference is in the case of proposed public disclosure of classified information obtained from the executive branch to which public disclosure the President has objected in writing. Under Rule 48, such a HPSCI-recommended disclosure may then nevertheless be approved by a vote of the House. Under H.J. Res. 8, a two-thirds rather than a simple majority vote is required to approve public disclosure over the President's written objection.

Under my proposal, the joint committee would be authorized to take appropriate actions against committee members of staff for unauthorized disclosure of intelligence information in the joint committee's possession. In the case of such a violation by a committee member, the joint committee could censure the offender. It could expel him from the committee unless the House of which that individual is a Member objects by majority vote within 5 days. Last, the joint committee could recommended the offending Member's censure or expulsion by the Senate or House, as the case may be. If a staffer of the joint committee makes such an unauthorized disclosure, that individual would be subject to appropriate disciplinary action by the joint committee, which may include immediate dismissal.

Having specific, meaningful sanctions for unauthorized disclosures, particularly in cases involving Members themselves, demonstrates more than most other actions our seriousness about protecting sensitive classified intelligence information. In this regard, it is very consistent with the secrecy oath provisions in H. Res. 279. As I noted earlier, Rule 48 makes it the duty of the Ethics Committee to investigate unauthorized disclosures. However, despite the language in clause 3(a) of Rule 48 that HPSCI ". . . shall promptly call to the attention of the House or to any other appropriate committee . . . any matters requiring the attention of the House or such other committee . . .", it has been my experience the HPSCI has not brought information regarding unauthorized disclosures to the attention of the Ethics Committee unless that committee has been able to deduce on its own that such a disclosure may have occurred and specifically requested information from HPSCI. H.J. Res. 8 would place more direct responsibility on the joint committee to act in the case of an unauthorized disclosure than appears to be the case with HPSCI under Rule 48. Nevertheless, my joint resolution does not rule out a role for the Ethics Committees where appropriate.

Mr. Chairman, let me conclude by emphasizing that now is the time for this committee to take a forward-looking and eminently responsible position on these matters. I urge the committee to carefully consider and perfect these valuable reform proposals and bring them to the floor for consideration by the House. They will benefit the legislative process. They will enhance the reputation of Congress with the American people. They will enhance our capability to promote our national interests in an uncertain and dangerous world.

Thank you for your kind attention and interest.

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RICHARD HELMS
PRESIDENT

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March 24, 1987

The Honorable Henry J. Hyde
U.S. House of Representatives
House Office Building
Washington, D.C. 20515

Dear Mr. Hyde:

You indicated that you would be interested in any comments I might have about H.R. 1013.

This bill proposes to tighten up certain reporting requirements on new covert actions undertaken by the Central Intelligence Agency. In so doing it demands that Presidential "findings" be "in writing" and that a copy of the written "finding" be furnished to certain members of Congress and to the Vice President, Secretaries of State and Defense, and the Director of Central Intelligence. At the rate written documents of the Executive branch appear in the newspapers these days, I would have thought that this requirement almost constitutes a guarantee that no action would long remain "covert." When a written finding is sent to a Senator, a Congressman, or a Cabinet officer, how many individuals on their staffs actually see this document? Quite a few, I would surmise. Put another way, this legislation would further insure that with the inability of the Executive and Legislative branches to identify "leakers," "covert action" as an option in support of U.S. foreign policy is doomed. This is not necessarily because future Presidents and Directors would be unwilling to take the chance, but because the experienced officers who must carry out such operations would not wish to become involved in what they would inevitably regard as a "no win" situation.

It strikes me that rather than focus on H.R. 1013, the Senate and House of Representatives might better exert their energies on the adoption of a Joint Committee along the lines you have proposed. The Tower Commission Report contains the most recent recommendation for establishing such a Joint Committee. Last year's report of the Vice President's Task Force on Terrorism contains a similar recommendation. Cord Meyer in his column of March 13, 1987 in the Washington Times argues the

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case in favor of a Joint Committee. Under date of December 9, 1985 I sent you a letter supporting your original bill. I feel even more strongly in favor today and repeat what I wrote to you at that time.

This past weekend Senator David Durenberger, former Chairman of the Senate Select Committee on Intelligence, was quoted in the Washington Post as having exposed during a speech in Florida an alleged American intelligence operation in Israel. Equally egregious classified information leaks come from the Executive departments. If the Executive and Legislative branches of our government cannot reach an appropriate balance on the issue of congressional oversight and the mutual confidence implicit in it, the security of intelligence information acquired for the United States of America is indeed in serious trouble. Let us hope that the Congress will see the wisdom of making this collaboration easier by moving toward a Joint Committee with a small staff. This would reduce the number of individuals privy to intelligence secrets, thus making it less contentious for the two sides to work in harmony.

Sincerely yours,

Richard Helms

STANSFIELD TURNER

The Honorable Henry J. Hyde
House of Representatives
Washington, D.C. 20515

Jan. 27, 1986

Dear Henry,

Thank you for asking for my views on your proposed Joint Resolution to establish a Joint Committee on Intelligence. I apologize for taking so long to respond.

I fully support your concept and your resolution. In my recently published book "Secrecy and Democracy", I list a Joint Committee as one of 11 recommendations to improve our intelligence. Doing so would not only reduce the number of leaks, but would encourage the Director of Central Intelligence and other officials to be more forthcoming, knowing that they had only one committee to which to report.

My only suggestion for possible improvement of your resolution concerns the time of service of members of the committee. I understand the motives that led to limitations on length of membership on the present committees, but I believe we've seen more of a problem from short tenures than long. It seems to me that the both Select Committees today are short of experienced members.

Rather than initial terms of two, four and six years for the initial members, I'd make that four, six and eight, even though once the system is rolling there would be a six year maximum. A two year term is pretty short to learn the intelligence business and means opening a lot of highly sensitive material to people who will not need it for long.

I would also suggest one exception to the six year rule. That is, if a member who has served six years is likely to and wants to become Chairman or Vice Chairman, he or she should be allowed to stay on the Committee an additional two years if elected Chairman or Vice Chairman. One of the few disadvantages of the program you have designed is that it is likely to lead to a lot of turnover in chairmanships.

Again, I appreciate the opportunity to comment and would be happy to attempt to be of any further assistance.

Yours,

Stansfield Turner

3028 DENT PLACE, N.W.
WASHINGTON, D.C. 20007
202 338 5231

July 12, 1990

The Honorable Henry J. Hyde
United States House of Representatives
Washington DC 20515

Dear Mr. Hyde:

Please allow me to commend and support your initiative to consolidate the separate Senate and House Committees for oversight of the nation's intelligence activities into one Joint Committee. This would be a move which would provide the kind of close supervision by the Congress of the important function of intelligence but reduce the risk of exposure of its sensitive activities, lessen the burden that separate reporting imposes on the intelligence community and increase the impact of Congress' comments on the effectiveness of the community by focussing its influence rather than diluting it between House and Senate.

I fully support a vigorous role by the Congress in fulfilling its Constitutional responsibilities to supervise every activity of our government, including intelligence. There is, however, an enormous diversion of the attention of the leadership of our community from concentrating on the tasks of collecting, analysing and disseminating intelligence about problems the nation faces in the world abroad when they must repeat their briefings to separate committees of the Congress and respond to the different and variegated questions the separate committees originate.

If a secret becomes a half-secret when it is shared between two people, and proceeds geometrically from there, it is clear that it should be shared as narrowly as possible. Plainly, it must be shared with an adequate number in the Executive Branch to perform the function, and to provide the tight management necessary over such a delicate subject. Similarly, it must be shared with the Congress, but again with the minimum number of people necessary to perform the function of Congressional oversight. When one considers the numbers who have been exposed to the secret affairs of intelligence because of the normal rotation of membership on the committees and the workings of the electoral process (plus the staffs involved), it is clear that the numbers of individuals involved over the years reaches massive - and perilous - totals. The tradition of Senate and House independence is not a sufficient reason to allow this number to remain expanded beyond the necessary.

The work of the House and Senate Committees over the past fifteen years has established a pattern of cooperation in the oversight process between the Congress and the Executive. In this situation, less concern need be displayed over cooption by the Executive of the Congress' role. A concentration of the process into one Joint Committee would in my view build on this experience and strengthen it.

Thank you for receiving and considering my views on this important subject. I hope for success for your initiative.

Sincerely,

S/ WEC

William E. Colby

Mr. MOAKLEY. Some people originally thought the joint committee was a good idea and have since changed their mind. Many reasons were given—the differences in schedule between the House and the Senate, the getting together of both, establishing the quorum.

I know that as one member who has been on the committee for a long while and who is a hard-working member of that committee, why would you think—I know why you think, I have seen some of these statements—but evidently you think that a joint committee on intelligence was much better than a House committee on intelligence.

Mr. HYDE. I think you rotate the chairmanship and the vice chairmanship through the Senate and the House. I think a small group, say, that would fit in this room, the DCI could come in and do his thing and the NSA could come in. There would be a freer, in my judgment, and an easier exchange that the Congress through the joint committee could focus on what the problem is.

The fact that they meet at different times, service on this committee should prescind all other committees, and I do like the idea that if you serve on this you take a leave, but you go back in the same rate.

That would not discourage good people from serving because you don't get any political mileage out of this committee. You can't. You can't talk about it.

Mr. MOAKLEY. It is like this committee, you don't get any political mileage out of it.

Mr. HYDE. But I think a joint committee would be enhanced, I think the prestige of it would be elevated, and that might attract your better people to want to serve.

I know the staff doesn't like it because the turf would be infringed upon in jobs, and I understand that, and that is all very legitimate, but I think the fewer, the less chance for leakers, the more high-powered the committee would be, the more singly focused.

Think of the time you would save to the intelligence community and what is lost in making presentations really four times around.

Mr. MOAKLEY. I think as far as getting the best in the House, I think the best Members in the House are probably candidates for the Intelligence Committee or have spoken to people to show that they are interested, so I don't think a joint committee would make it any more desirous of some of the Members of the House.

In getting back to your proposal of the joint committee having the right to dismiss a member for telling secrets out of school, so to speak, that has never been done on any committee.

Mr. HYDE. Well, this is a unique committee.

Mr. MOAKLEY Isn't that an awful lot of power to have over one member?

Mr. HYDE. The other alternative would be to turn it over to the Ethics Committee, I guess, and let the Ethics Committee do something about it, but that is more and perhaps therefore less desirable, but I think there has to be some accountability.

I suppose the Speaker could call somebody in and chew them out. I am not married to that idea.

I just think there has to be accountability and some discipline when we are dealing with stuff, and it is weird when you hear about it and the next day it is in the Washington Post, and that has happened.

Mr. MOAKLEY. I just think that the power to have the right to expel a member——

Mr. HYDE. Oh, I am told by counsel that this is not made by the chairman of the committee. It is made by the Committee on Standards of Official Conduct.

Mr. NELSON [staff, Permanent Select Committee on Intelligence]. On the joint committee, Mr. Chairman, the dismissal would be subject to a vote to overturn that by the House, of which that Member was appointed from.

Mr. MOAKLEY. All right.

Mr. Beilenson?

Mr. BEILENSON. I don't really have questions.

My good friend Mr. Hyde, as I said before—I mean it—couldn't be a better ranking minority member. We disagree on some of these particular proposals.

I just want to show my point of view, which is different from his point of view. Both points are legitimate, you know, so I don't——

Mr. HYDE. For what it is worth, I hope you do extend the term for Mr. Beilenson to serve as chairman. I think he is doing an exemplary job.

Mr. BEILENSON. I am not going to do it without you. We are trying to get yours extended, too.

Mr. HYDE. I made the mistake. I stayed on Foreign Affairs because I don't want to give it up, and I stayed on Judiciary because I don't want to give it up, and you can't do three. It is too much. If this becomes a permanent committee, because a permanent committee means you stay under a bushel your whole career, and our Congressmen aren't going to be willing to do that for long.

Mr. BEILENSON. I think we should have 8 years rather than 6. I don't think it should be a permanent committee.

Mr. HYDE. I think the chairman should get 10.

Mr. BEILENSON. My not asking questions of Mr. Hyde is not because I don't find his points of views interesting and provocative.

Mr. HYDE. I would hope your staff would read my statement because it is a prolix, but it has all the information in it.

Mr. MOAKLEY. I think before you were here we asked some of the former committee chairmen to assess Mr. Solomon's proposal, so we are going to keep the record open because I think this touches some very sensitive chords here.

Mr. HYDE. You know, reducing the size of the committee is not a bad idea, really.

Mr. MOAKLEY. But then Mr. Stokes says all sections should be represented on the committee. Then if you reduce it, you further reduce the representation.

Mr. SOLOMON. Mr. Hamilton disagreed with him.

Mr. MOAKLEY. I am just saying that——

Mr. HYDE. You have to have some tradeoffs.

Mr. BEILENSON. May I just jump in for one second, just to comment on those—we are trying to emphasize that the basic need here is to do a good job of oversight. No matter how many people

you have on a particular committee, not all of them end up being terrific members. You need a certain critical mass, so although I don't prefer to be larger rather than smaller, if you have 19 as we do now, the chances that are 10 or 12 will give you a decent amount of their time. You will have enough members. If you only have 9 or 10 or 12, you only have 8 or 9 who give you as much of their time as you need.

The other is with respect to a more evenly divided committee.

Mr. Hyde suggests seven and six. That, I suppose, is to be left up to the majority leadership.

They have some problems with it. One of the problems—although we don't prefer it to be this way, although it has been forced upon us—is that it has become a policy committee. It used to be nonpartisan under Mr. Boland. I guess it was the Nicaraguan issue that really changed it around for us. When the Boland amendment came up, it became kind of partisan.

The fact of the matter is, and this is nobody's fault really, the administrations—and I hope in the future, if we ever have Democratic administrations, too—will be seeking to carry out some of their major foreign policy initiatives by covert means through the CIA, which will then be looked at by the Intelligence Committee.

It is covert, secret, and we can't talk about it on the floor, but the majority party, whoever it is, wants to make sure it retains control of the policymatters. Even though the Democrats have a sizable majority in the committee, when it comes to the policymatters, our Republicans very much have majority votes—if we only had 7 to 6, Democrats would lose every single one.

We need a decent-sized majority like we have on Rules where it is 9:4. You understand.

Mr. MOAKLEY. Sometimes it is not enough.

Mr. HYDE. The Chairman is correct. We do get some hot policy issues, and they become very political, and it is unfortunate, but I just think a tighter, leaner, meaner committee would be a better one, but it is just my opinion.

Mr. MOAKLEY. Mr. Solomon?

Mr. SOLOMON. Henry, I appreciate your coming up here. I know you have to get back to the floor. I wouldn't keep you but a minute. As far as I am concerned, expelling a member from the committee, is totally in order. I think taking an oath of secrecy, is totally in order.

I would even go so far as to give Members of Congress a lie detector test. I mean, what do they have to hide? If they are loyal, American citizens, let them take a lie detector test.

Mr. MOAKLEY. If they goof off, hit them with a cat-o'-nine-tails.

Mr. SOLOMON. We had testimony saying the Soviet threat, you know, was receding and there might not be a problem, but that is debatable.

Mr. HYDE. But, Jerry, an oath of secrecy is minimal, and an oath is done when you get married, when you are sworn in for Congress, when you are serving on a jury. It just heightens the stature and the status of the act, and for people on the Intelligence Committee taking an oath of secrecy led by the chairman would solemnize, if you should pardon the expression, the ceremony.

Mr. SOLOMON. It would be a hell of a deterrent, too.

Mr. HYDE. But I see nothing wrong with that, and you know when we want witnesses to testify, we are not too sure of, we say, you know, take an oath. I think Members should indicate this is a special committee, a select committee.

Mr. MOAKLEY. Henry, you wouldn't think the oath we take every 2 years when we are sworn in would suffice for membership on the committee?

Mr. HYDE. The secrecy aspect is not stressed at all. We uphold and defend the Constitution and all that, and that is great, but taking the oath upon coming on this committee, I would think is—upon the formation of the committee every Congress would heighten the sensitivity to what you are doing.

It is more ceremonial and symbolic, but someone might think twice about leaking if they know they are taking an oath.

Mr. SOLOMON. And Henry, they might think twice about leaking information. I started to say that maybe the Soviet threat is receding. I am not so sure about that. I think there is still espionage going on out there. I think we will hear some testimony on that, but what we know is not receding is state-sponsored terrorism. By all means any kind of deterrence we can throw up to make Members aware is something we ought to be doing, and that is certainly why we ought to be adopting your legislation.

Mr. HYDE. You are right. I wouldn't dare disagree with you.

Mr. MOAKLEY. Henry, it has always been a pleasure when you testify before the committee.

Mr. HYDE. You are very kind. It is always fun to come up here. Thank you for your courtesy.

Mr. MOAKLEY. We will now hear from the gentleman that allows you to take his time, the Honorable Gerald Solomon.

STATEMENT OF HON. GERALD B.H. SOLOMON, RANKING MINORITY MEMBER OF THE SUBCOMMITTEE ON RULES OF THE HOUSE

Mr. SOLOMON. Mr. Chairman, I am not going to take the well down there. I will speak from here, and I will try to be as brief as I can.

I will submit my testimony in writing.

Mr. MOAKLEY. Without objection the gentleman's entire statement will be on the record.

Mr. SOLOMON. In order to save time, I will pass over the opening portion of my remarks to get to the point, which I have been pushing for 4 years now. It is embodied in House Resolution 105, which I passed out earlier, and it quite simply calls for the creation of a House of Representatives Classified Information Security Office. Many of us can well remember the sad events that happened in 1985 and thereabouts, the so-called year of the spy, and God knows it was in every paper all across this country; a literal flood of highly damaging espionage cases washed over our Nation revealing that foreign espionage agencies had penetrated and recruited from among the ranks of our most important intelligence agencies.

Keep that in mind. In the 2-year period of 1984 and 1985, 25 spies were caught, and since then at least another 10 cases of espionage have been discovered. By no means has the Congress been

immune from this epidemic of espionage, which is why I was concerned about some of the commentary earlier today.

In 1985, an employee of a private transcription firm was caught trying to sell classified transcripts of committee hearings to the Soviet Union. In other earlier instances American citizens seeking employment with congressional committees were discovered to be recruits of foreign agents right here in Congress.

In 1982, an employee of the Congress reported to the FBI an attempt to recruit him by the Soviet KGB. That is an actual fact, it actually happened, as recently as last year, so this is essentially not something that has been going just 10 years ago.

As recently as last year a member of the staff of the Senate Foreign Relations Committee was the object of a recruitment attempt by a Foreign Intelligence Agency. Now, sure the threat out there is receding, yet the Soviet KGB was here as recently as last December trying to recruit our staff.

I think that it is fortunate that this subcommittee can count among its members the chairman of our Select Committee on Intelligence, my good friend, Tony Beilenson. I believe that he might well agree with me that as shocking as such attempts at espionage here in the Congress may be, it is far more disconcerting to consider how many other attempts may have secretly met with success.

How many of them have there been? I don't know. The fact is, as his committee and its counterpart in the Senate have pointed out for several years now, our security measures for classified information here on Capitol Hill need great improvement.

In February 1987, I wrote to my good friend, Congressman Stokes, then the chairman of the Select Committee on Intelligence, to let him know of this proposal. Chairman Stokes told me soon after that that he and my good friend Henry Hyde were recommending to the Speaker and to the minority leader that an informal bipartisan task force be set up to look at how security in the House might be improved.

Then Speaker Wright and Minority Leader Michel called on the chairman and ranking members of several committees, most concerned with this problem, Foreign Affairs Committee the Armed Services Committee, Appropriations, and Intelligence Committees to recommend those issues that might be the subject of any review of House security.

By 1988, this effort had led the Speaker to create an informal and bipartisan security advisory group consisting of senior staff members from various committees dealing with national security issues on a frequent basis, and under the capable guidance of no less than Heather Foley, the Speaker's Chief of Staff. This group has since worked with the Sergeant at Arms of the House to identify the extent of this problem, and at the end of 1988, the Sergeant at Arms submitted findings to the Speaker and the minority leader which indicated that better security should be sought.

Now, my staff has since met with members of the Sergeant at Arms staff on this matter, and I want to take this opportunity to commend his office's continuing efforts to examine possible security guidelines and suggest additional resources that might be dedicated to this cause.

Despite this progress to date, the fact is that the effort begun in 1987, like the effort to improve counterintelligence in the executive branch, needs to be reinvigorated. Just a short distance from this hearing room is situated the security office that has been set up by the Senate in the last few years through the bipartisan efforts of Senators Byrd, Dole, and Mitchell. Mr. Michael Di Silvestro, the Director of that office in the Senate, was good enough to meet with our staffs to explain its operation and facilities. And if this subcommittee holds any further hearings, Mr. Chairman, on this bill, I think it would be worth while to take up his offer to meet in his office's classified facility to receive a classified briefing by the intelligence community on the espionage threat up here on Capitol Hill.

To my mind there is no good reason why this House cannot seek out and follow a path similar to that of the Senate in addressing this problem, specifically the Senate experience which shows that some of the most simple and yet most effective things could be done at relatively little cost, things such as creating a security awareness program for staffers, which all three of you gentleman had agreed with me previously during this testimony, providing secure phone lines, and keeping track of staff clearances and verifying them from executive agencies.

The Senate experience shows that such a beginning can steadily be built into an all-purpose facility where committees, groups of Members or Members and their staffs can meet or store classified documents. That is a real problem right now. We need to assure that their discussions and documents will receive far better security than they have had ever before.

Just in concluding, let me say that it is indeed a shame that we here in the House have invested little in security facilities as compared with the Senate. It is my understanding that even those House committees you might expect to have facilities secure from eavesdropping in all respects sometimes find it most reassuring to hold very sensitive discussions in the Senate facility over on the other side of the Capitol.

You ought to go over and take a look at it. I will be glad to go with both you gentlemen sometime. I would like to think that my proposal would provide an avenue to get such a facility here in the House.

So, Mr. Chairman, I am going to conclude, submit the rest of my statement along with several documents with your unanimous consent, Mr. Chairman, and hope that we can give my Resolution 105 some strong consideration for being adopted in the House. Thank you, Mr. Chairman.

[Mr. Solomon's prepared statement, with attachments, follow:]

PREPARED STATEMENT OF HON. GERALD B.H. SOLOMON, RANKING MINORITY MEMBER OF THE SUBCOMMITTEE ON RULES OF THE HOUSE

As the ranking member of this subcommittee, I want to first of all thank the chairman and my colleagues for providing me this time today to address a very important issue.

Our great legislative body, the House of Representatives, is a rich repository of information on a vast range of issues. In the course of their daily activities, the Members, committees and staff of the House receive and produce considerable amounts of sensitive information that, as a Nation, we certainly do not want to see fall into the hands of our competitors, either military or economic. Having had the

privilege to be a Member of this great body for almost 12 years now, I truly believe that this institution can also be a rich repository of wisdom—wisdon acquired by those of its Members who have examined, debated and addressed some of the most difficult problems facing our Nation. I am here today to ask my colleagues on this subcommitte to bring their collective expertise and wisdom to bear on a problem that, while confronting this institution day-after-day-after-day, regrettably receives the attention of the House and its membership at best only on a sporadic or ad hoc basis.

The problem I am referring to, of course, is the disorganized and often haphazard manner in which the House of Representatives seeks to ensure that the sensitive information it possesses indeed does not fall into the hands of our Nation's potential adversaries.

To my mind, the fact that this subcommittee is today holding an oversight hearing on this problem in the context of rule 48 of the rules of the House and is considering several proposals by which we might better address it is truly a sign of the wisdom to which I have referred. I truly hope that this hearing will lead us to conduct further hearings and report to the House at least some of the measures under consideration here today.

I want to concentrate my remarks on a proposal that I have been pushing for 4 years now. In this Congress, it is embodied in H. Res. 105, which, quite simply, calls for the creation of a House of Representatives classified information security office.

Many of us can well remember the sad events of 1985—the so-called "year of the spy." A literal flood of highly damaging espionage cases washed over our Nation, revealing that foreign espionage agencies had penetrated and recruited from among the ranks of our most important intelligence agencies. In the 2-year period of 1984 and 1985, 25 spies were caught. Since then, at least another 10 cases of espionage have been discovered.

By no means has the Congress been immune from this epidemic of espionage. In 1985, an employee of a private transcription firm was caught trying to sell classified transcripts of committee hearings to the Soviets. In other, earlier instances, American citizens seeking employment with congressional committees had been discovered to be recruits of foreign espionage agencies. In 1982, an employee of the Congress reported to the FBI an attempt to recruit him by the Soviet KGB. As recently as last year, a member of the staff of the Senate Foreign Relations Committee was the object of a recruitment attempt by a foreign intelligence agency.

I think that it is fortunate that this subcommittee can count among its members the chairman of the Select Committee on Intelligence. I believe that he might well agree with me that, as shocking as such attempts at espionage here in the Congress may be, it is far more disconcerting to consider how many other attempts may have secretly met with success. The fact is, as his committee and its counterpart in the Senate have pointed out for several years now, our security measures for classified information here on Capitol Hill need great improvement.

In February 1987, I wrote to Congressman Stokes, then the chairman of the Select Committee on Intelligence, to let him know of my proposal to create a House classified information security office. Chairman Stokes told me soon after that that he and my good friend Henry Hyde were recommending to the Speaker and to the minority leader that an informal, bipartisan task force be set up to look at how security in the House might be improved.

Then-Speaker Wright and Minority Leader Michel called on the chairmen and ranking members of several committees most concerned with this problem—the Foreign Affairs, Armed Services, Appropriations and Intelligence Committees—to recommend those issues that might be the subject of any such review of House security standards.

By 1988, this effort had led to the creation of an informal and bipartisan security advisory group, which began working with the Sergeant at Arms of the House to identify the extent of the problem.

At the end of 1988, the Sergeant at Arms submitted findings to the Speaker and the minority leader that indicated that better security could be sought.

My staff has met with members of the Sergeant at Arms' staff on this matter over the last year, and I want to take this opportunity to commend his office's continuing efforts to examine possible security guidelines and suggest additional resources that might be dedicated to this cause.

Despite this progress to date, the fact is that the effort begun here in 1987, like the effort to improve counterintelligence in the executive branch, needs to be reinvigorated. Just a short distance from this hearing room is situated the security office that has been set up by the Senate in the last few years through the bipartisan efforts of first, Senators Byrd and Dole, and then Senators Mitchell and Dole.

Mr. Mike DiSilvestro, the director of that office, was good enough to meet with my staff to explain its operations and facilities, and if this subcommittee holds any further hearings on this bill, I think it would be worthwhile to take up Mr. DiSilvestro's offer to meet in his office's secure facility to receive a classified briefing by the intelligence community on the espionage threat up here on the Hill.

To my mind, there is no good reason why the House cannot seek out and follow a path similar to that the Senate has taken in addressing this problem. Specifically, the Senate experience shows that some of the most simple and yet most effective things can be done at relatively little cost—things such as creating a security awareness program for staffers; providing a bank of secure phone lines; and keeping track of staff clearances and verifying them for executive agencies.

The Senate experience shows that such a beginning can steadily be built into an all-purpose facility where committees, groups of Members, or Members and their cleared staffs can meet or store classified documents—all with the assurance that their discussions and documents will receive far better security than they have ever had before.

At this point, I would like to say that it is indeed a shame that we here in the House have invested little in secure facilities as compared with the Senate. It is my understanding that even those House committees you might expect to have facilities secure from eavesdropping in all respects sometimes find it more reassuring to hold very sensitive discussions in the Senate's facilities.

Without getting any further into that in an open forum, I want to say that I for one approve of any efforts we might make here in the House to address that problem, and I would like to think that my proposal might provide an avenue to get to that goal.

My colleagues, I have gone on here at some length, but I want to make a last point of some importance: anything that we might do to set up a House classified information security office will be done best if we consider and respect our colleagues' concern that such an office not be a means of unnecessarily denying them information they believe they may need to carry out their legislative tasks. It will also be truly successful only if we ensure that such an office is subject to bipartisan control. That is why my resolution calls for the full operation of this office only upon the adoption of a manual outlining its management and duties by a recorded vote of two-thirds.

I am confident that with a bipartisan approach to creating such an office; with the gradual dedication of more resources to its efforts; and with the growing assurance such an operation would provide to the executive branch that its documents, testimony and briefings were receiving the best possible security—across the board from individual Members to committees—the House would find its access to such information broadened rather than threatened.

Mr. Chairman, I have some related documents that I would like to submit for the record.

Thank you again for your consideration of this important problem.

[Additional material submitted by Congressman Solomon follows:]

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CHAIRMAN,
HOUSE TASK FORCE ON AMERICAN
PRISONERS OF WAR AND
MISSING IN SOUTHEAST ASIA

Congress of the United States
House of Representatives
Washington, DC 20515

February 3, 1987

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEES
HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS
(RANKING REPUBLICAN MEMBER)
ASIAN AND PACIFIC AFFAIRS

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEES
COMPENSATION, PENSION AND INSURANCE
(RANKING REPUBLICAN MEMBER)
HOSPITALS AND HEALTH CARE
EDUCATION, TRAINING AND EMPLOYMENT

MEMBER
HOUSE TASK FORCE ON
NATIONAL DEFENSE

Hon. Louis Stokes
2365 Rayburn H.O.B.

Dear Cong. Stokes:

In respect of your Chairmanship of the House Permanent Select Committee on Intelligence, I wanted to forward for your consideration a legislative proposal I plan to introduce upon the Members' return from the Lincoln/Washington District Work Period.

As you can see from the enclosed materials, this Resolution would establish a new House of Representatives Classified Information Security Office to carry out several functions in pursuit of better security for our nation's secrets. I believe that in working with the Intelligence Committee to draft a House Security Manual, in educating our employees on the nature of the espionage threat, and by advising and assisting all Members and employees on the proper handling of sensitive materials, such an office could prove a valuable ally to us all in our efforts to ensure that valuable secrets do not escape our grasp.

As you know, the Senate Select Committee on Intelligence is presently in the process of reviewing proposals such as this for possible implementation in that house of the Congress. I sincerely invite your consideration and co-sponsorship of this proposal. Please don't hesitate to contact me should you wish to join as an original sponsor of this Resolution or to express your views as a Member of the Committee on Intelligence.

With very best regards, I am

Sincerely,

GERALD B.H. SOLOMON
Member of Congress

GBS/smg

LOUIS STOKES, OHIO, CHAIRMAN
[illegible], OKLAHOMA
[illegible] C. DANIELSON, CALIFORNIA
[illegible] W. EASTERBROOK, WISCONSIN
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U.S. HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE
WASHINGTON, DC 20515-6415

FEB 18 1987

February 18, 1987

Honorable Gerald B.H. Solomon
2342 Rayburn House Office Building
Washington, D. C. 20515

Dear Jerry:

Thank you for your letter of February 6 proposing the creation of a Classified Information Security Office in the House.

The Permanent Select Committee on Intelligence recently addressed the question of Congressional security in a report, "United States Counterintelligence and Security Concerns - 1986," released last week. I draw your attention to pages 18 through 19 of the report, a copy of which I append.

In my view, and in the view of the former Chairman and Ranking Minority Member of the Committee, the appropriate first step in the matter of Congressional security is to ask the Speaker to conduct a security survey of all House offices and Committees so as to build a data base on which he can then make some judgments with regard to security issues for the House. I believe Bob Michel should be fully involved in this process. Enclosed is a copy of a letter that Henry Hyde and I have sent to Speaker Wright and to Mr. Michel on this matter.

You may be interested in knowing that this was a matter which was suggested to Speaker O'Neill late last year but could not be acted upon because of the expiration of the 99th Congress.

Sincerely,

LOUIS STOKES
Chairman

Enclosures

ROLL CALL

THE NEWSPAPER OF CAPITOL HILL

VOL. 32, NO. 33 Washington, D.C. $1.00 March 16, 1987

Congress Seeks Way To Plug Leaks

By David S. Cloud
and Lynda Robinson

While investigations into the Iran-Contra connection continue on Capitol Hill, the Senate and House are considering measures to improve the security of classified documents and prevent unauthorized leaks.

In the Senate, Majority Leader Robert C. Byrd (D-WVa) has proposed restructuring the Office of Classified National Security Information, where classified information is stored. If the Rules, Government Affairs and Intelligence committees agree, the office on the fourth floor of the Capitol also will handle security clearances for all Senate staffers.

In anticipation of the change, Secretary of the Senate Walter J. Stewart is requesting $120,000 in fiscal 1988 for increased salaries for the security information office.

A similar proposal is expected to be introduced in the House by Rep. Gerald Solomon (R-NY), who wants to create what he calls the House "Classified Information Security Office," a clearinghouse to coordinate the handling of classified documents by staffers and Members. The hope is to prevent leaks both to the press and to foreign "moles"

The draft resolution suggests the office could have three functions: "to educate House employees on potential efforts by foreign intelligence agencies to recruit them; to provide overall standards for the handling of classified information, and to serve "as a centralized index of [House] employees with clearances and need-to-know" and "as a secure facility for storing sensitive documents."

Solomon acknowledges that his proposal may be seen by some of his colleagues as an attempt to restrict their access to classified material.

"The opposition will be there," he said. "There are some members who think that everything ought to be public."

Working with the Intelligence Committee, the security office would at that time produce a "Security Manual" defining the actual standards for handling classified material and the specific role to be played by the office itself.

So far, eight Republicans and three Democrats have signed up to co-sponsor the resolution, including Reps. Bob Stump (R-Ariz), Samuel Stratton (D-NY), Jim Bates (D-Calif), Robert Lagomarsino (R-Calif), Bill McCollum (R-Fla), Carlos Moorhead (R-Calif), Jim Inhofe (R-Okla), George Wortley (R-NY), Frank Wolf (R-Va), Helen Bentley (R-Md), William Lipinski (D-Ill).

Solomon says he got the idea for the security office after reading a 1986 report by the Senate Intelligence Committee which details various attempts by foreign agents to get classified material from Congress. In that report, the Congress is described as having "no established standards and procedures" for handling classified material.

"Personal offices and Committee practices vary widely in terms of their handling of clearances and classified material," the report reads. "There are few, if any, checks in this system."

The problem, says Solomon, is that "the documents are kept all over the place. They're supposed to be either removed or destroyed, but it's not always done that way."

Jack Russ
Sergeant at Arms

Office of the Sergeant at Arms
U.S. House of Representatives
Washington, DC 20515

November 1, 1989

Honorable Gerry Solomon, M.C.
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Solomon:

I appreciate Mark Gage of your staff taking time recently from his busy schedule to meet with my staff regarding legislation to establish an office dedicated to assisting Members with security clearance requests and procedures for handling classified material.

I look forward to working with you and other Members interested in establishing such an office. As Mr. Gage may have mentioned to you, we are making progress in this regard. I have been working with an advisory group comprised of representatives from the Majority and Minority Leadership as well as Majority and Minority Staff Directors of several Committees, and I believe there is growing recognition of the imperative need for dedicated resources in this increasingly sensitive area.

Enclosed is additional information related to your legislation as well as a copy of a proposal I submitted regarding the very closely related issue of technical security. Please do not hesitate to contact me if you have any questions about the material.

Sincerely,

JACK RUSS
Sergeant at Arms

Enclosures

WALTER J. STEWART
SECRETARY

United States Senate

OFFICE OF THE SECRETARY

OFFICE OF SENATE SECURITY
WASHINGTON, DC 20510

MEMORANDUM

25 September 1989

TO: Office Security Managers

FROM: Mike Di Silvestro
Office of Senate Security

RE: Jan Fejgl, First Secretary, Embassy of Czechoslovakia

On 30 May of this year, Jan Fejgl, then First Secretary of the Czechoslovakian Embassy in Washington, was declared persona non grata and expelled from the United States. Fejgl's expulsion was the result of his attempt to obtain classified defense information from an employee of the Senate, who was cooperating with the Office of Senate Security and the FBI. No classified information was compromised during that operation.

Although we have learned a great deal about Fejgl's activities in Washington prior to his expulsion, there is, assuredly, more to learn. It is known that Fejgl spent a significant amount of time on the Hill during his Washington assignment. What is not known is the number of people he may have tried to approach, and the categories of information in which he may have expressed interest.

Obviously, it is important to obtain the fullest possible understanding of the activities of a foreign intelligence officer working within the United States. Therefore, I ask that you distribute this memorandum, along with the attachments, to all members of your staff. If any of them had any contact with Fejgl, or any knowledge of his activities or contacts, please have them contact me. Even the (seemingly) most trivial information relating to Fejgl's activities in the Senate could prove to be informative.

Attached are: 1) a newspaper article about the Fejgl case published after the State Department announced his expulsion, and; 2) a photograph of Fejgl taken last year.

Please call me at 224-5632 or 224-3671 (secure) if you have any questions.

Thank you.

Ousted Czechoslovak envoy was caught in act of espionage

By Bill Gertz
THE WASHINGTON TIMES

A Czechoslovak diplomat quietly expelled from the United States in May was an aggressive intelligence operative who committed "an act of espionage" after trying to recruit a clerk on the staff of the Senate Foreign Relations Committee as a spy, FBI and State Department officials said yesterday.

The expulsion was kept secret until Friday, when it was disclosed by the Bush administration after the Prague government retaliated by ordering U.S. diplomat Robert Norman to leave Czechoslovakia, allegedly for taking part in illegal street demonstrations.

"We are considering the options," a State Department official said yesterday when asked if further action would be taken against Czechoslovak diplomats here for Mr. Norman's expulsion.

"We have made it clear to the Czechoslovak government that this action is a a serious blow to our efforts to improve bilateral relations," said the official, who spoke on condition of anonymity.

Czechoslovak Embassy First Secretary Jan Fejgl, 36, had worked undercover as an officer of his nation's intelligence service, STB, since his arrival here in September, said FBI officials who asked not be named.

The officials said Mr. Fejgl was an agressive operative who had attempted to recruit several European-born Americans. He had three years remaining on his assignment, they said.

One FBI informant said in an interview that Mr. Fejgl boasted earlier this year that he was working with 13 agents in Washington and had "connections" to a Czechoslovak-born professor who served as a senior foreign policy adviser to Democratic presidential candidate Gov. Michael Dukakis.

The agents he had recruited were described as "low-level" government officials, the informant said.

Authorities said Mr. Fejgl first approached a German-born document clerk who worked for the Senate Foreign Relations Committee with requests for secret and unclassified documents on a wide range of subjects, including materials related to Asia and the NATO alliance.

The clerk told committee staff director Geryld B. Christianson of the recruitment attempt, and he in turn alerted the FBI and Senate Security Office, officials said. Officials asked that the clerk, who emigrated from Germany after World War II, not be identified by name.

An FBI official said the clerk had access to top-secret committee documents related to U.S. arms control and defense matters, as well as transcripts of closed committee hearings.

The Foreign Relations panel oversees State Department activities and is frequently consulted on the foreign policy aspects of covert intelligence operations.

After learning of the recruitment effort, FBI counterintelligence agents set up a "double-agent" sting operation. The clerk posed as a Czechoslovak agent and passed documents to Mr. Fejgl over a two-month period, officials said.

The operation ended with the carefully staged passage of a document containing secret military data to Mr. Fejgl, at which point FBI agents moved in and arrested him, officials said. No secret information was compromised in the operation, they said.

"On May 27, 1989, he [Mr. Fejgl] was detained by FBI agents in Washington while in possession of a document classified 'secret,' which he had solicited and received from an American citizen who was cooperating with the FBI," FBI Assistant Director Milt Ahlerich said yesterday. "The document pertained to U.S. Department of Defense programs." He did not elaborate.

Mr. Ahlerich said possession of the document violated U.S. espionage laws and was an "action incompatible with his diplomatic status."

Mr. Fejgl, who had diplomatic immunity, was released into the custody of Czechoslovak Embassy officials a short time after his arrest, he said.

He was ordered to leave the country on May 30, after the State Department notified the Prague government that "Mr. Fejgl's continued presence in the United States was not in the best interests of bilateral relations between the U.S. and Czechoslovakian governments," Mr. Ahlerich said.

Mr. Fejgl departed with his family June 2. He is married and has two sons.

The State Department official, who asked not to be named, said the action against Mr. Norman in Prague was unwarranted and "a clear-cut case" of retaliation for Mr. Fejgl's expulsion.

The Czechoslovak was caught in "an act of espionage," he said, while Mr. Norman "acted at all times in accordance with internationally accepted diplomatic practice" in monitoring human rights activities in the Central European country.

The Czechoslovak's forced departure was not publicized because "we had told the Czech government that we would not publicize this matter if they showed equal discretion and refrained from retaliating," he said.

"In light of Mr. Norman's expulsion, however, we have no alternative but to publicize our expulsion of the Czechoslovak diplomat."

Roy Godson, a Georgetown University professor who specializes in Soviet bloc intelligence services, said the STB has maintained close ties to the Soviet KGB "for decades."

"The Czechs in the past have specialized in recruiting members of Parliament in Britain and, apparently, also are targeting members of Congress," Mr. Godson said.

Another Czechoslovak spy, Karl Koecher, compromised the identities of CIA agents after he infiltrated the CIA posing as an emigre translator from 1973 to 1975. Koecher was caught in 1984 and traded in a 1986 East-West prisoner exchange.

Mr. MOAKLEY. I think you have heard from the former and present Chairmen who think that your resolution has a lot of merit. They just want to look at it a little longer. I would like to look at their statements and see how they feel about it.

Mr. SOLOMON. I thank you very much, Mr. Chairman.

Mr. MOAKLEY. Mr. Beilenson?

Mr. BEILENSON. I would like to reiterate what you said. I find a lot of potential usefulness in Mr. Solomon's resolution. Anything we can do to increase the security around here, if it needs to be done it ought to be done. I am not quite sure of the best way to do it. It is interesting that you brought up that nonpartisan group of staff.

I worked with them a year ago or so and no one has talked to me about it since. I don't know what has happened to it. I do recall, Jerry—I don't know at what point you were involved in this—they were talking about a really grandiose scheme to spend a billion dollars to build a place in the Longworth Building on top of the cafeteria.

It would probably collapse the ceiling on the cafeteria, of course we already know the food there isn't too great. I think you can do it in a much simpler way. As I suggested to you earlier, when I was sitting down there with the panel, I think if there is some way that we can extend what I believe to be the really good security of our particular committee to some of the other committees whose members, just on a casual basis handle stuff which is classified—we have to do it all the time and therefore are more sensitive to it—I think we ought to do that.

I have no idea about the Senate side and I have some concerns about how the Senate Select Committee on Intelligence handles their matters; they have a setup which we do not have, which I totally disapprove of, where each individual member of the committee, either 15 or 16, has his own individual staff person, as members of the Rules Committee have.

I think that is a serious problem. Here we have our own professional staff. They are extremely sensitive to these problems. I think this is a very useful concept. I think if we start with a relatively minimal approach and let it grow as necessary, I think it can be very helpful to us. I appreciate the gentleman's pushing this.

Mr. SOLOMON. I certainly appreciate the gentleman's input.

Mr. MOAKLEY. Okay.

The committee will now hear the Honorable Robert K. Dornan.

Thank you very much for waiting so long.

Mr. DORNAN. You bet.

STATEMENT OF HON. ROBERT K. DORNAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DORNAN. Mr. Chairman, I agree with you. I learned an awful lot listening to Mr. Hamilton, Mr. Stokes and the current chairman, Mr. Beilenson. I have the enviable position here of coming in with a motherhood amendment which brings together a lot of positive suggestions in a very noncontroversial way. Particularly it underscores some of the things that my good friend and colleague, Mr. Solomon, has said, and also gives a use to this proposed rede-

sign of the cavity area in the Longworth Building. My proposed rule change would ensure the briefing of staffers on the seriousness and the mechanics of security, particularly with documents.

I was listening to Mr. Beilenson's interesting and friendly challenge to Mr. Hyde, that our oath of office should be sufficient. Taking that thought and applying it to staff, and then taking what Mr. Hyde said about marriage and so forth, I started thinking about my own staff, which I consider to be very loyal.

Most young people do not have an opportunity to play high pressure sports, like very competitive high school or college football where you have a secret playbook and you swear on your life you will not divulge one of those plays.

Most of my staff is not married, so they have never taken someone else's hand and sworn fidelity, one of the most important oaths we take in our life. But they understand the oath I took watching me raise my hand for the sixth time, taking an oath to defend the Constitution against domestic and foreign enemies. In other words, the majority of my staff, I think, is like most staffers on this Hill. They have never taken an oath. I don't know if I have got a former Boy Scout that held up the Boy Scout salute and promised to take an oath of loyalty, and yet they are still good Americans or I wouldn't have hired them, and they still want to be loyal but I can see there are occasions they can stumble into some incorrect actions on how to handle documents, and Lord knows I have seen it, and we all have gotten together in trying to clean up some sloppiness a couple of years ago at the one agency, when it was founded by congressional statute, said because it deals with the most secret documents from State, from Defense, from NSA, from DIA, from CIA, that it should set the highest standards. I had the former retired general who is head of NSA tell me it had the lowest standards of any agency in town dealing with classified documents.

So, if I could just briefly read from my legislation, in simplistic terms it would just require that all House employees who are granted security clearances, they already have this trust now, receive initial, and then semiannual security briefings, which include current sabotage and espionage threats directed against the United States. In his very calm and scholarly and judicial manner, Judge Webster has told us all, under one of Mr. Beilenson's hearings this year, that the Soviet espionage efforts, as Mr. Solomon surmised, have been an increase in this period of lessening strategic tensions. I go back to President Carter's first Attorney General, and I brought this up in the hearing, Tony will recall, that he said to a group of freshmen who were visiting, this would be in the spring of 1977, and with his great southern accent he said this Hill is crawling with spies. They are coming out of the woodwork. This was Judge Bell, President Carter's attorney general.

Has the situation changed much? Mr. Sessions said no, and later on in a different breakfast meeting Judge Webster concurred.

So this House rule change is consistent with U.S. Government policy as directed in Executive Order 12356, and with rules established in the U.S. Senate.

Our staff people, as I have said, they are motivated. They are bright. They are loyal or we wouldn't hire them. We are fortunate

to be able to draw upon the best America has to offer in staffing our offices.

We all know that we turn down some very bright and talented young men and women who want to go to work for us. But because of the tremendous demands upon our time and the demands we place on their time, we have come to rely on our staff to keep us informed on a great many issues. For those of us fortunate enough to sit on one of the committees which deal with national security issues. Those demands are often greater.

I am lucky enough to be on the Research and Development Subcommittee of the Armed Services Committee, which is probably only second to the HPSCI in the level of secrecy that is required of its members.

We have asked the executive branch to grant security clearances to our staff so they can effectively assist us in all of our duties. Well, being Members of Congress, immediately being sworn in, we have access to all of the deepest secrets that our Nation holds, information related to U.S. war plans and certain categories of specific intelligence. Our staffers, however, have to go through the same adjudication process as any member of the administration.

A security clearance is, as we all agree, a matter of trust, but with that trust comes responsibility, and the background investigation that our staffers undergo certify that they meet the minimum requirements to have access to secret sensitive information, yet we do not assure that these trustworthy individuals, very bright, know all their responsibilities and how to safeguard this information.

I believe all Members support a standardized security education program. One measure of that support was a very large study conducted at the request of the House Leadership back in 1988. The task was given to our good friend, Sergeant at Arms Jack Russ, who in turn assigned a House technical security division of our Capitol Police, to solicit information pertaining to all the various ways that we use in congressional offices when we are handling this classified information.

Based on this study, Jack's office has implemented a number of changes, including its security indoctrination program.

Prior to 1989 when a typical staffer was granted a DOD clearance, the Sergeant at Arms would be notified and his office sent a letter informing one of us that our staffer had been granted a clearance. The CIA and DOE handle their own indoctrination through the appropriate committees. Along with the letter, the staffer was sent a copy of the initial security briefing and classified information nondisclosure agreement briefing. The staffer was asked to read it. Most don't. It is thick and dull. More than likely, staff follow the same reading practice that I do. Unless it is urgent or mandatory, reading material ends up in a stack. Staff will often intend to read the security booklet that very night and then the next night and the next night and some spot checks at the Sergeant at Arms' office find that these good, trustworthy people don't end up reading it at all. I think we have got a tragedy that is about to happen to an innocent person.

We want our staff to take the time to look it over, absorb all this information, but this Jack Russ-instigated survey found out very few, afraid to even ask the percentage, do it.

The Sergeant at Arms has overall responsibility for our House security problem, and I tell you I have never seen our good friend and colleague Lee Hamilton so animated or any more forceful than he was today. He obviously felt very strongly about his years of service as chairman and has given a big part of his life to it.

And as Mr. Hyde said here, we, who serve on the HPSCI, are under a bushel. Our constituents really don't know about some of the good work done by the intelligence committee and all the people who work on intelligence issues in this House.

The CIA is acutely aware of this syndrome.

We know every time they stub their toe, right up to unfairly, I think, calling them a rogue elephant. But all of their success stories go unknown, just like of the 40 some stars indicating CIA agents who were shot, killed, poisoned, murdered, in the line of duty. Less names are up on that wall than just a blank space after the star, of a gold star CIA agent whose heroism is not known to his mother, his father, his wife or even his children.

So these intelligence success stories, we don't hear them, but, boy, we know the failures.

Here the Sergeant at Arms with overall responsibility for the House security awareness program, the director of security is tasked to ensure that before granting any of these security clearances, House employees are briefed on the provisions of this manual, as well as the other pertinent instructions.

By the way, our staff can refuse to be briefed. How do you like that? I don't know that anybody has refused. At a minimum, the briefing consists of the employee trying to go through this, concerning disclosure of information related to national defense, responsibility, storage, handling, markings, disposal, classified information, but this briefing is not mandatory. I have to repeat that and unlike the rest of the Government, the rest of the Government and security, no provisions for refresher training, none, zip, zero.

As of April 1989, the office of Sergeant at Arms has set up a volunteer program. Two men are employed. They are excellent. Fortunately, the security officers who make the initial contact with each officer do so in a manner that most staff now do come in for basic indoctrination. It must be the force of their diplomatic personalities. I haven't heard of any arm twisting. This is conducted by this volunteer staff of two individuals in a tiny little closet office over in Annex Two.

Now, the Sergeant at Arms has an idea of a facility where there would be a permanent office for these people and a lovely briefing room for them to bring staff for security briefings. The intelligence people would call it quick and dirty, but a constant reminder for those that don't have to raise their hand in an oath, that this is very serious business and that they are protecting not just the country, but their Members, and conducting themselves in a very professional way.

I will skip over some of the rest of my written statement at this point, but stress the word "robust". A robust security awareness program, if given through the adoption of this House rule, would be excellent.

I would like to suggest one change to my legislation. On page 2, lines 20 and 21 should read as follows: "an employee of the Office

of the Sergeant at Arms of the House, or other outside agencies as "appropriate" brought into a system.

I believe this change reflects the proper role of the Sergeant at Arms consistent with House rules concerning security issues.

Let me close, gentlemen, in saying that the Sergeant at Arms' office wants to provide this robust security program. It simply doesn't have the resources, the manpower or the space. This would be a promising first step to establish House rules mandating that our staffers receive these appropriate briefings.

I really believe twice a year is not too much. Once the rule is adopted, the Sergeant at Arms' office could then elicit the manpower resources from the appropriate administration department or agency, and they are very willing to assist.

Briefings would require a very small amount of the staffers' overall time, perhaps no more than 45 minutes twice a year. Hopefully, every Member who deals with classified information would also avail him or herself occasionally to these briefings as well, or at least have the staffer come back and tell them about current situations.

We know before anybody about espionage cases on the Hill, and sometimes we are able to share with our staffers cleared for top secret, and I certainly believe in closing, Mr. Chairman, it would be time well spent, and maybe head off some unforeseen tragedy by some young staffer who was as loyal to his country as anybody who has ever served here in over 200 years but just didn't understand how to maintain these documents or how some people are still coming out of the woodwork around here that do not wish our Republic well, and work for foreign powers.

Thank you.

[Mr. Dornan's prepared statement follows:]

PREPARED STATEMENT OF HON. ROBERT K. DORNAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, thank you for the opportunity to testify today on behalf of my proposed rule change as embodied in H. Res. 46. In the simplest terms, my legislation would require that all House employees granted security clearances receive initial and semiannual security briefings which include current sabotage and espionage threats directed against the United States. This rule is consistent with U.S. Government policy as directed in Executive Order 12356 and with rules established in the other Body.

Our staff are highly motivated, bright and loyal. We are all fortunate to be able to draw upon the best that America has to offer in staffing our offices. Because of the tremendous demands upon our time, we have come to rely on our staff to keep us informed on a great many issues. For those of us fortunate to sit on one of the committees which deal with national security issues, we ask the Executive to grant security clearances to our staff so they can effectively assist us in our congressional duties.

As you may be aware, Members of Congress have, immediately upon being sworn in, full access to our Nations deepest held secrets. The only restriction is information related to U.S. war plans and certain categories of intelligence information. Our staff, however, must go through the same adjudication process as any member of the administration.

A security clearance is a measure of trust and with that trust comes responsibilities. The background investigations that our staff undergo certify that they meet the minimum requirements to have access to sensitive information, yet we do not assure that these bright, trustworthy individuals know their responsibilities for safeguarding this information.

I believe our colleagues support a standardized security education program. One measure of that support was a study conducted at the request of the House leader-

ship in 1988. The task was given to Jack Russ who, in turn assigned the House Technical Security Division of the Capitol Police to solicit information pertaining to various methods used by congressional offices when handling classified information.

Based on this study, the Office of the Sergeant at Arms implemented a number of changes, including its security indoctrination policy. Prior to April 1989, when a staffer was granted a DoD clearance (DOE and CIA handle their own initial indoctrination) the Sergeant at Arm's office would send the letter from the Pentagon informing a Member that his staffer had been granted a clearance. Along with this letter the staffer is sent a copy of Initial Security Briefing and Classified Information Nondisclosure Agreement Briefing and the staffer is asked to read it. I'd like to think that all staff take the time to look it over and absorb the security information contained therein. However, as the 1988 survey found, few staff find the time.

The Sergeant at Arms has overall responsibility for the House Security awareness program. The Director of Security is tasked to ensure that, before the granting of a security clearance, House employees are briefed on the provisions of this manual as well as other pertinent security instructions. At a minimum the briefing consists of the employee reading the espionage laws concerning disclosure of information relating to the national defense and the responsibilities, storage, handling, markings and disposal of classified information. But this briefing is not mandatory and unlike the rest of the Government there is no provision for refresher training.

As of April 1989, the Office of the Sergeant at Arms has set up a "volunteer" program. Fortunately, the security officers who make the initial contact with each office do so in such a manner that most staff now come in for the basic indoctrination. This is conducted by a volunteer staff of two individuals in Annex II. Since the office has many functions, is understaffed and has little space, it is difficult for the security "volunteers" to give each staffer much more than the very rudiments of security.

While congressional offices are aware that protective measures are required when handling classified information, these measures are practiced to a limited extent. It is apparent from the 1988 survey that the methods practiced are done so without fixed direction as the House does not have specific published guidelines pertaining to the various aspects of handling security information.

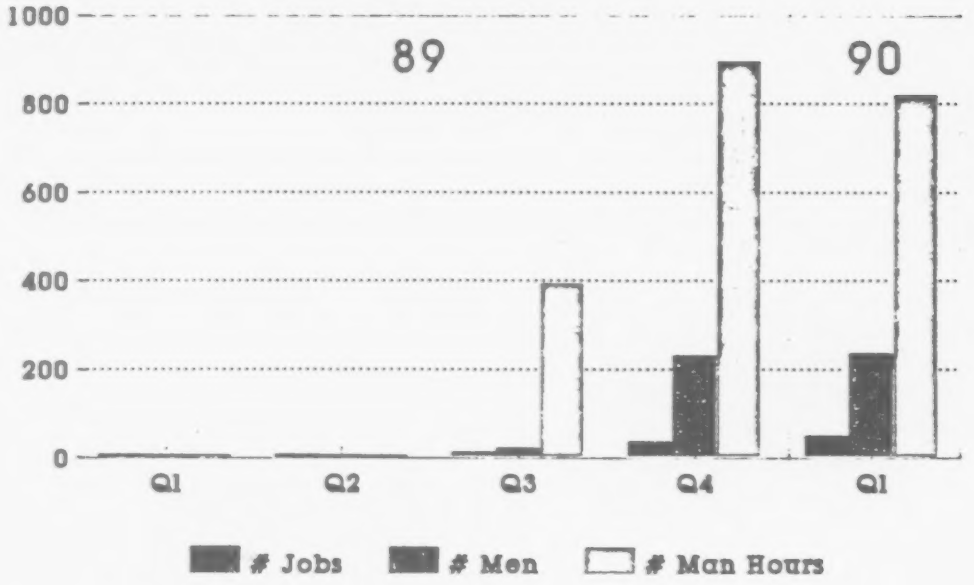
The House Sergeant at Arms functions as the central point within the House for control of classified material; process clearance request for personnel of the House; provide centralized recording and certification of clearances held by House personnel; and, is responsible for administering a security awareness program for the benefit of all House personnel. In short, they are responsible for the "nuts and bolts" of safeguarding and handling classified information.

Mr. Chairman, Jack Russ needs help to effectively deal with the responsibilities of security indoctrination, foreign travel and refresher briefings. The Department of Defense, Department of Justice and Department of Energy have all indicated that they would actively support a robust security awareness program if given House guidance through the adoption of a House rule. In this regard I would like to make one change to the wording of H. Res. 46. On page two, change lines 20 and 21 to read: "an employee of the Office of the Sergeant at Arms of the House, or other outside agencies as appropriate." I believe this change reflects the proper role of the Sergeant at Arms and is consistent with House rules concerning security issues.

The Sergeant at Arms' office wants to provide a robust security program but that it simply does not have resources, manpower, or space. A promising first step is to establish House rules mandating that staff receive the appropriate briefings. Once the rule is adopted the Sergeant at Arms office could then elicit the manpower and resources from the appropriate administration department or agency. Briefings would require only a small amount of our staff's overall time, perhaps no more than 45 minutes, twice a year. Hopefully, every Member who deals with classified information would also avail himself or herself to these briefings as well. I truly believe this will be time well spent.

[Additional material submitted by Mr. Dornan follows:]

Technical Security Division
Fiscal 1989-1990



Note: FY 90 first quarter only

TECHNICAL SECURITY DIVISION

FISCAL 1989 - 1990 STATISTICS

FY 1989	[redacted]	[redacted]	NUMBER OF MAN HOURS
Q1	02	02	03
Q2	NONE		
Q3	10	20	392
Q4	33	229	893
TOTAL	45	251	1288

FY 1990	NUMBER OF JOBS	NUMBER OF MEN	NUMBER OF MAN HOURS
Q1	46	234	818

*Note: The increase in the Technical Security Division Statistics begining in the 3rd Quarter of FY 1989 (April) is due to the new services that are being provided to the employees of the U.S. House Of Representatives and the U.S. Capitol Police.

These services have included: 1. Processing security clearance applications. 2. The handling, distribution and storage of classified material to include the inspection/review of the containers and facilities. 3. Physical security site suveys (PSSS).

CHAPTER X

SECURITY EDUCATION

10-100 Responsibility and Objectives

Heads of DoD Components shall establish security education programs for their personnel. Such programs shall stress the objectives of improving the protection of information that requires it. They shall also place emphasis on the balance between the need to release the maximum information appropriate under the Freedom of Information Act (DoD Directive 5400.7, reference (k)) and the interest of the Government in protecting the national security.

10-101 Scope and Principles

The security education program shall include all personnel authorized or expected to be authorized access to classified information. Each DoD Component shall design its program to fit the requirements of different groups of personnel. Care must be exercised to assure that the program does not evolve into a perfunctory compliance with formal requirements without achieving the real goals of the program. The program shall, as a minimum, be designed to:

a. Advise personnel of the adverse effects to the national security that could result from unauthorized disclosure and of their personal, moral, and legal responsibility to protect classified information within their knowledge, possession, or control;

b. Indoctrinate personnel in the principles, criteria, and procedures for the classification, downgrading, declassification, marking, control and accountability, storage, destruction, and transmission of classified information and material, as prescribed in this Regulation, and alert them to the strict prohibitions against improper use and abuse of the classification system;

c. Familiarize personnel with procedures for challenging classification decisions believed to be improper;

d. Familiarize personnel with the security requirements of their particular assignment;

e. Inform personnel of the techniques employed by foreign intelligence activities in attempting to obtain classified information, and their responsibility to report such attempts;

f. Advise personnel of the penalties for engaging in espionage activities;

g. Advise personnel of the strict prohibition against discussing classified information over an unsecure telephone or in any other manner that permits interception by unauthorized persons;

h. Inform personnel of the penalties for violation or disregard of the provisions of this Regulation (see paragraph 14-101 b.);

i. Instruct personnel that individuals having knowledge, possession, or control of classified information must determine, before disseminating such information, that the prospective recipient has been cleared for access by competent authority; needs the information in order to perform his or her official duties; and can properly protect (or store) the information.

10-102 Initial Briefings

DoD personnel granted a security clearance (see subsection 7-100) shall not be permitted to have access to classified information until they have received an initial security briefing and have signed Standard Form 189, "Classified Information Nondisclosure Agreement." DoD 5200.1-PH-1 (reference (xx)) provides a sample briefing and additional information regarding Standard Form 189. Cleared personnel employed prior to the effective date of this Regulation must sign Standard Form 189 as soon as practicable but not later than 28 February 1990.

10-103 Refresher Briefings

Programs shall be established to provide, at a minimum, annual security training for personnel having continued access to classified information. The elements outlined in subsection 10-101 shall be tailored to fit the needs of experienced personnel.

10-104 Foreign Travel Briefings

a. Personnel who have had access to classified information shall be given a foreign travel briefing, before travel, to alert them to their possible exploitation under the following conditions:

1. Travel to or through communist-controlled countries; and

2. Attendance at international scientific, technical, engineering or other professional meetings in the United States or in any country outside the United States where it can be anticipated that representatives of Communist-controlled countries will participate or be in attendance. (See also DoD Directive 5240.6 (reference (bb)).

b. Individuals who travel frequently, or attend or host meetings of foreign visitors as described in a.2., above, need not be briefed for each occasion, but shall be provided a thorough briefing at least once every 6 months and a general reminder of security responsibilities before each such activity.

10-105 Termination Briefings

a. Upon termination of employment, administrative withdrawal of security clearance, or contemplated absence from duty or employment for

60 days or more, DoD military personnel and civilian employees shall be given a termination briefing, return all classified material, and execute a Security Termination Statement. This statement shall include:

1. An acknowledgment that the individual has read the appropriate provisions of the Espionage Act (reference (tt)), other criminal statutes, DoD regulations applicable to the safeguarding of classified information to which the individual has had access, and understands the implications thereof;

2. A declaration that the individual no longer has any documents or material containing classified information in his or her possession;

3. An acknowledgement that the individual will not communicate or transmit classified information to any unauthorized person or agency; and

4. An acknowledgement that the individual will report without delay to the FBI or the DoD Component concerned any attempt by any unauthorized person to solicit classified information.

b. When an individual refuses to execute a Security Termination Statement, that fact shall be reported immediately to the security manager of the cognizant organization concerned. In any such case, the individual involved shall be debriefed orally. The fact of a refusal to sign a Security Termination Statement shall be reported to the Director, Defense Investigative Service who shall assure that it is recorded in the Defense Central Index of Investigations.

c. The security termination statement shall be retained by the DoD Component that authorized the individual access to classified information for the period specified in the Component's record retention schedules, but for a minimum of 2 years after the individual is given a termination briefing.

Appendix VII. GUIDANCE FOR PREPARATION OF SECURITY BRIEFINGS

A. Defensive Security Briefings.

1. General. A defensive security briefing containing elements of the following outline shall be given to those individuals or employees so identified in paragraph 5u.

2. Introduction. National policy over the past several years has encouraged the expansion of cultural, trade, and commercial ties with Designated countries. As a result, an increasing number of representatives from Designated countries are coming to the U.S. on trade visits, cultural visits, East-West exchange visits, and the like. Similarly, representatives of U.S. industry have been, with increasing regularity, making reciprocal visits to Designated countries. These expanding marketing opportunities carry with them a parallel responsibility for ensuring that certain categories of information are not released, and, where appropriate, proper authorization is obtained prior to release.

a. U.S. citizens who have had access to classified defense information are important targets for hostile intelligence services. It is common practice for hostile intelligence services to establish and maintain dossiers on personnel of intelligence interest, particularly of personnel whose jobs afford them access to vital defense information in any area of special interest. These services are constantly on the alert for opportunities to gain any kind of advantage that can be exploited, regardless of the country visited.

b. The intelligence network of the Designated counties is worldwide and ever present. These intelligence agencies have concentrated on those fields which involve scientific and military knowledge possessed by the Western powers. A key source of technical and scientific information are the numerous conventions, seminars, conferences, and symposia held throughout the world each year. Other means of obtaining information is through the tight, police-like controls over the movements of all personnel visiting Designated countries. Travelers may be "targeted" the moment they apply for a visa. Under such controlled conditions, there is little that can be done to prevent espionage efforts and harassments directed against selected individuals.

c. It must be remembered that Designated country intelligence and security services carry espionage activities to fantastic lengths. While the techniques that are employed may seem far-fetched or illicit, they are in fact used in day-to-day activities and operations. Travelers must recognize them as a part of the Designated system, so that they may successfully counter such practices. A publication entitled, "A Study of Harassments and Provocations," illustrates procedures used by Designated country intelligence and security services, and is intended to support official defensive security briefings for persons with authorized access to classified information who are traveling to such countries. Copies of this publication may be requested from the CSO.

3. Export Controls. The U.S. Government, by statute, E.O., and administrative policy, has established a number of procedures designed to control the export of certain categories of information. One of its primary objectives is the control of the export of scientific and technical information to ensure that information made available to Designated countries does not work to the detriment of the U.S. national interest. Among the existing controls are:

a. a system for classifying national security information and strictly controlling its dissemination (E.O. 12356);

b. a system to control the export of arms, ammunition, and implements of war, including unclassified technical data and information relating thereto (see the ITAR issued by the Department of State); and

c. a system to control the export of U.S. commodities and unclassified technical data which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the U.S. (see the Export Administration Regulations issued by the Department of Commerce).

4. Marketing Activities With Designated Countries. It must be recognized that marketing personnel are in a particularly difficult role. On the one hand they must be in a position to knowledgeably discuss their products and employ all of the attributes of good salesmanship to promote a free exchange of information in order to successfully conclude marketing endeavors. On the other hand, a clear understanding of, and strict adherence to, the controlling regulations are necessary for those categories of information which cannot be disclosed, or which require prior U.S. Government approval in order to be disclosed. Marketing personnel, who meet with representatives from Designated countries, should be thoroughly versed and totally knowledgeable with respect to what information may be released. Meticulous preplanning is essential if U.S. security interests and responsibilities are to be properly met. The following categories of information merit special consideration before planning a meeting with representatives from Designated countries.

a. Disclosure of Classified Information. Obviously, classified information may not under any circumstances be disclosed to representatives from Designated countries. It cannot be assumed that all personnel are thoroughly familiar with respect to what is and what is not classified. A thorough reassessment and evaluation of pertinent information should be undertaken to ensure a complete and unequivocal understanding as to what is and what is not classified.

b. Unclassified Information Relating to Classified Contracts. Before a contractor may disclose any information that pertains to a classified contract or project, the contractor must obtain the approval of DoD as provided for in section I, paragraph 5o. It is essential to ensure that all personnel who will participate in visits by representatives of Designated countries are thoroughly knowledgeable with respect to that information which relates to classified contracts, and which therefore may not be released without prior approval of DoD.

c. Information That Comes Within the Purview of the International Traffic in Arms Regulations. The ITAR applies not only to the export of arms, ammunition, and implements of war, but also to both classified and unclassified technical data related thereto. Disclosure to a representative of a Designated country within the U.S. or abroad constitutes an export under the provisions of these regulations. Further information concerning these requirements may be obtained from the Office of Munitions Control, Department of State, Washington, D.C. 20520.

d. Technical Data Subject to Export Control. Unclassified technical data, pertaining to items on the "Commodity Control List" may require approval by the Department of Commerce prior to release to a representative of a Designated country. Part 379, Technical Data, Export Administration Regulations, issued by the Department of Commerce pursuant to the Export Administration Act of 1969, as amended, sets forth the rules applicable to the export of technical data. Release of such information to a representative of a Designated country within this country or abroad constitutes an export under these regulations. For further information in this connection, inquiries should be addressed to the local U.S. Department of Commerce District Office, or to the Office of Export Administration, Department of Commerce, Washington, D.C. 20230.

5. Conclusion. Attention to this very difficult and complex area is essential if U.S. national interests are to be properly safeguarded, and if the contractor is to abide by the DD Form 441 with DoD and with the applicable U.S. statutes, as enumerated above. In the case of any information which may be classified or any information relating to a classified contract, the contractor should initiate appropriate consultation with his or her contracting officer. Whenever there is any doubt or question with respect to other information, consultation may be necessary with the Office of Munitions Control, Department of State and/or the Office of Export Administration, Department of Commerce. If there is any doubt, or if there are further questions, ask the CSO. In all situations, be sure that information disclosed to representatives of Designated countries is appropriate for release to these countries. If in doubt, do not provide the information. Although the emphasis in this guide has been placed on the procedures to be followed when engaged in marketing activities with representatives of Designated countries, generally, these same procedures are applicable when dealing with representatives of any other foreign countries.

B. Counterintelligence Awareness Briefings.

1. General. A counterintelligence awareness briefing containing elements of the following material, or updated information, shall be given to appropriate individuals or employees.

2. Introduction. The following elements of information are intended to be neither all-inclusive nor all-exclusive, but should be used as source material in the preparation of counterintelligence awareness briefings and as a guide for the type of information to be included in this type of briefing. Routine, stereotyped briefings not only fail to meet intended objectives, but could actually weaken security by giving the recipient a false sense of security. Only the use of thoughtfully prepared briefings, based on authoritative information and related to the duties performed, and the sensitivity of the

classified information to which exposed and manner of presentation, will accomplish the purpose. The following information has been extracted, with permission, from a pamphlet published by the Federal Bureau of Investigation, "Secrets, Spies and Citizens." Copies of the pamphlet may be requested from the local FBI office. Additional current topical material may be requested from these offices or from local military intelligence activities.

3. The Threat. Intelligence collection -- the world of espionage and counterespionage, spies, and spy catchers -- is a popular subject of fiction. It has been the topic of countless books, short stories, TV serials, and movies. The role of the spy, the "Secret Agent," has become so sensationalized and exaggerated that it is very easy to think that spies exist only in the minds of fiction writers -- that spying belongs in the same category as science fiction and westerns. Do not believe it. Spies do exist, and literally thousands of spies, or intelligence officers, as they are officially known, and their agents are at this moment plying their treacherous trade within the U.S. The principal source of these intelligence officers is the Soviet Union, but the USSR's allied nations in Eastern Europe, as well as Cuba, the People's Republic of China, and smaller Asian Designated nations such as North Korea and Vietnam, also dispatch spies to U.S. shores.

a. The Objectives and Techniques of Spies. Their main objective is the wholesale collection of data. The most prized type of intelligence data is the classified government document, but unclassified material -- even material which appears to be trivial -- can also be of inestimable value. In their task of gathering intelligence data, the foreign intelligence services have a large array of tools. Satellites miles above the earth's surface gather photographic data. Aircraft and vessels gather electronic intelligence. But a further source of data, and potentially the most valuable to a hostile nation, is that acquired through the use of actual spies. (Here the briefer may wish to identify the type of classified projects or work being performed by the facility which lends credence to possibility of its being an espionage target.) Intelligence services may gather their information through the use of several different techniques. Probably the greatest achievement an intelligence organization can have is the placement or recruitment of an agent directly in a sensitive position in a national defense or intelligence element of an opposing government. The penetration by live or electronic sources of private institutions involved in sensitive, national defense-related research and development work can also be of tremendous value.

(1) Hostile intelligence collectors ply Washington and other locations where strategic data can be collected. They gain their desired information wherever, whenever, and from whomever it can be had. Hostile intelligence officers employ various tactics in their campaigns to enlist target employees. They may use a honeyed, seemingly guileless approach. They befriend targets, treat them to gifts and money, wine and dine them. Many Soviet and other Designated agents believe that Americans are hopeless materialists, and can be easily swayed by appeals to their alleged greed.

(2) In another maneuver, a hostile intelligence officer misrepresents him or herself as a citizen of a country friendly to the U.S. Thus a targeted American may be duped into handing over sensitive information by being led to believe that he or she is aiding an ally to

the U.S. In variation of this tactic, an intelligence officer poses as a representative of a non-Designated country towards which a targeted American is particularly sympathetic. Also, if a hostile agent believes that an individual has Designated or similar sympathies, he or she may make an appeal for information based on ideology. A "pitch" for information may also be geared to take advantage of an American's desire for international harmony and world peace.

(3) Another favored appeal exploits the American belief in freedom of speech and the free exchange of information. A hostile intelligence officer in the role of a scientist may, for example, tell an American scientist that science has no political boundaries. Therefore, in the interest of science, the American is encouraged to share his or her knowledge with a fellow "member" of the international scientific community. Intelligence agents can also play rough in their ceaseless quest for strategic information. To such people espionage is a business. If they feel coercion and blackmail will serve their purpose, they will not hesitate to employ those methods. The honeyed approach can readily turn sour if an agent determines that a targeted employee has personal inadequacies which that employee does not wish to have exposed.

(4) Correspondingly, another tactic is the exploitation of a "hostage situation." If, for example, a foreign intelligence service learns that a target employee has relatives in Eastern Europe or the USSR, that employee is in an extremely vulnerable position. First will come gentle persuasion (an agent may produce "letters" from so-called relatives calling for the American to "cooperate"). If that does not work, the agent may suggest that harsh measures could be applied to the relatives.

b. Recognizing the Approach.

(1) One should therefore be wary of glad-handing strangers who make an intensive effort at forming a friendship, and then slowly but surely begin to use that friendship to learn where one works, the nature of one's assignment, and who one works with. A generous and inquisitive stranger could very well be the proverbial wolf in sheep's clothing.

(2) One should also be wary of strangers who ask for information not related to their professed area of interest or do not seem to be particularly knowledgeable in their field. Thus, if "scientists" request data not related to their fields, or do not seem to know much about their supposed areas of expertise, then they could very well be impostors.

(3) The operative of a foreign intelligence service need not be a foreigner, nor need the occasion of encountering him or her be in any way extraordinary. The neighbor one might meet at a PTA meeting could be a foreign diplomat who lives down the block, or he or she could be a fellow American who has been recruited as an agent by a hostile service. The spy could be a "spotter," who reports to an intelligence service on persons he or she meets who appear to be susceptible to recruitment and, sometimes, arranges for intelligence officers to meet them. Do not expect either intelligence officers or agents to expose their roles in any dramatic and sudden fashion. Usually there is a long period of cultivation during which conversations with

the individual could be completely normal and innocuous. However, at any point where someone begins to inquire into aspects of one's knowledge or activity which are classified or otherwise private, one should certainly stop to consider whether the inquiry is normal innocent curiosity, or whether it might be the beginning of an attempt to secure intelligence information for the benefit of another country.

c. Protecting the Bits & Pieces. It cannot be overemphasized that unclassified material may be just as valuable to a foreign intelligence service as classified material. In formulating their estimations of U.S. strengths and weaknesses, and in the quest for data that will enhance their own nation's strength, foreign intelligence services seek all types of material. A small bit of information could represent a very important piece in a much larger puzzle. Therefore, all data should be protected from the probing hands of foreign agents. A stolen industrial process can save thousands of dollars in research and development cost. The most trivial document could be the missing link of a hostile nation's problem.

d. Reporting the Threat. In the effort to protect America's secrets, the role of the facility must be emphasized. Each U.S. Government agency and private industry which deals with classified material has a specified official in charge of security matters. This security officer should be recognized as an ally and not an adversary. If approached by a suspicious stranger in the manner described above, the security officer should be informed immediately of the encounter. Even if a friendship has been established, even if the individual has been able to pry loose some information, the security officer should be consulted. A major aspect of the security officer's job is to protect employees from getting involved in compromising situations and, if necessary, to extricate them from such situations. Such assistance cannot be rendered if the employee remains silent. Of course, it is much better for an employee to reveal a suspect relationship voluntarily, rather than have it come to light in the course of a security investigation, or through some other means. Then, it may be too late for anyone to assist the indiscreet employee. Basically, it cannot be overemphasized that, if involved in a compromising situation, the sooner the employee consults his or her facility security officer, the better. Of course, sometimes one will be in a place or situation where one cannot, or for some reason does not want to, contact the security officer. Remember that in the U.S., the FBI is as close as the nearest telephone. Directions for contacting FBI offices appear in the front of all U.S. telephone books. Abroad, the nearest U.S. diplomatic establishment can arrange to put one in touch with the FBI or other appropriate U.S. Government security officials. Once again, it must be stressed that the best course of action in any of the questionable situations mentioned herein is to immediately relate the facts to a counterintelligence professional who will be able to analyze the situation and propose a course of action. Effective counterintelligence is a demanding and professional discipline, and any attempts by untrained or uninformed amateurs to handle hostile efforts on their own could not only result in personal disaster, but also could interfere with the FBI's coordinated counterattack.

e. Summary of Threat. Finally, it must be stressed that the threat posed by foreign intelligence agencies cannot be underestimated. History is replete with situations in which a nation's security was greatly damaged by the efforts of a hostile nation's intelligence services. In

American history, the breaking of the Japanese secret code helped to bring U.S. victory in the Pacific during World War II. On the other hand, the theft of some key U.S. atomic secrets greatly abetted the interests of the Soviet Union. The craft of spies is by no means a game. The very fate of nations can be damaged or enhanced by their enterprises.

4. Summary -- Counterintelligence Awareness is Critical. The Soviet Union and its surrogates have established a long standing, well-organized, deliberate, and quite successful effort to acquire and utilize Western state-of-the-art technology by both overt and covert means. Unquestionably, this acquisition of Western technology has played, and will continue to play, an extremely important role in the development of industrial and military capabilities of Designated countries, particularly the Soviet Union. A philosopher once said, "Knowledge itself is power." This maxim most certainly applies to national power, for one gauge of national power is the amount and quality of scientific, technological, and military-related knowledge possessed by a nation. A nation such as the U.S. can be weakened by the theft of its vital knowledge, and its enemies can be strengthened by the acquisition of that knowledge, whether it be classified or unclassified. It is the responsibility of each individual who has been entrusted with sensitive data to do his or her share in protecting America's strategic knowledge, whether it be classified TOP SECRET or seemingly unimportant, unclassified material. For if Americans do not conduct themselves in a responsible and patriotic manner, do not recognize that this country's national security is based essentially on the loyalty and efforts of its citizens, then the tightest document classification system, the most efficient security organizations, and the mightiest Armed Forces may be utterly valueless.

Mr. SOLOMON. Bob, what program does the Executive have to handle the same type of documents?

Mr. DORNAN. Well, you are tempted to say, a program with a lot of holes in it, or how do we get the Walkers and the Pollards. But overall the Executive has a very good record. I have included, with my remarks, excerpts of relevant DOD documents pertaining to its security program. Every young enlisted person who goes into the military goes through appropriate schools. I mean, there are schools that are 2 months, 3 months, 6 months, a year long, all with refresher courses.

I agree—I heard Mr. Hamilton say with great passion, we are our own judge of security here, and let the executive branch clean up their leaks and we will clean ours. But they have the expertise pool of professionals who deal all day long with this issue. Our professional staffers on the Intelligence Committee, have this sensitivity, and they are aware of security all day long. But our personal staffers that deal with this material, do so only part time.

Mr. SOLOMON. Well, I don't even know that the staffers on the Intelligence Committee have to go through, so I will yield to my chairman of——

Mr. DORNAN. Well, if I might say, these are the kind of people that conduct these briefings, as they are getting it themselves, but our committee staff, Mr. Beilenson's staff, to give up 2 days a year, for 45 minutes, to go in and conduct a quick briefing to staffers from all over the Hill in a new room as proposed by the Sergeant at Arms, or as proposed in Mr. Solomon's great suggestions.

Mr. MOAKLEY. Is that your plan?

Mr. SOLOMON. No.

Mr. DORNAN. This is the Sergeant at Arms' plan.

Mr. SOLOMON. I alluded to it.

Mr. DORNAN. It is the folding room in the Longworth Building. They are moving across the street.

Mr. MOAKLEY. Your proposal doesn't propose to build another building. You just propose a program.

Mr. DORNAN. This would be a good place to do it, but if they brought them to our intelligence room, they would probably have to bring them in shifts. You know what the figure is; 1,135 people have top secret clearances on Capitol Hill. That doesn't include Members.

Now, that is a high figure, because some people have retired or gone over to other agencies in the executive branch. We don't clean those lists, but that is a lot of people.

Mr. SOLOMON. A lot of those people are out there running around in the private sector right now and still have their clearances.

Mr. DORNAN. That is right. Because we don't withdraw it as well as the executive branch, again, without conjuring up any competitiveness here, but they are more circumspect about cans lining these things.

Mr. MOAKLEY. You mean to say once they leave government service, they don't automatically terminate?

Mr. DORNAN. Not on this Hill.

Mr. SOLOMON. No. That is one of the things we have to look into.

Mr. BEILENSON. There are 4 million people out there with security clearances, the vast majority of whom are employees of subcon-

tractors of military defense firms, and they drive around talking to each other over their phones.

So we probably need to worry about our own stuff, and we should, but when we start talking about the numbers of people out there with security clearances, you know——

May I just say a couple of quick things?

Mr. MOAKLEY. Absolutely.

Mr. BEILENSON. I totally agree with the rest of my friend's suggestions. I have a couple of questions and concerns.

One, Mr. Dornan just answered a question about how many people we are talking about, probably somewhere less than 1,000. We don't know. I would be surprised if it is even that many.

I don't have anybody on my staff over in Longworth or back home in Los Angeles who has any kind of security clearance. I don't talk to them about anything I am doing over at the committee.

But I take it some Members have staff with security clearances. That is a concern to me, but as we have said before, they are dealing with things less sensitive than the hand full of staff we have upstairs here and the handful of staff over at the Senate Intelligence Committee.

I would do anything, including this proposal or something else, to bring them under some kind of umbrella. But we shouldn't have nearly many, so the very first useful thing about this would be to get us a list of people with clerances and start cutting it way back to begin with.

Mr. SOLOMON. If the gentleman would yield; if he reads my bill, that is part of it.

Mr. BEILENSON. I understand. Your last one. I like that. To establish that list.

Mr. SOLOMON. Yes.

Mr. BEILENSON. Exactly.

My only problem is, I just want to make sure we are not talking about anything too grandiose or bureaucratic. We start balking about space and manpower.

I don't think you need space and manpower.

Mr. DORNAN. I was kind of piggybacking on other ideas.

Mr. BEILENSON. You don't even need secure space like ours. You can bring them in here or anywhere else and give them a lecture and sensitize them to it, but, if you want, you can borrow our space.

Mr. DORNAN. Or we can use Armed Services' room. That is swept all the time.

Mr. BEILENSON. I am just pleading with you guys——

Mr. SOLOMON. It is also inadequate. We heard some testimony——

Mr. BEILENSON. Don't talk about giving Jack Russ more people. We can bring in people from CIA or our committee or whatever to sit down with groups of 20 or 30 at a time, once or twice a year, and tell them what to do, and just sensitize them. That is basically what you want to do.

Mr. DORNAN. If we make it mandatory, we could do that under our committee.

Mr. BEILENSON. Another suggestion. Twice a year may be too much. Once a year, you save, you know, you save 50 percent of the manpower, the time, whatever. You could require them twice a year or on their sixth month anniversary to sign a statement saying they looked at the manual. That is what they do at the CIA. They sign something saying, I have seen the manual.

But everyone at this little briefing session will have read the manual. It isn't even necessary to do a lot. You just need to be sensitized to this thing. And if you are not filling the space up there, you tend not to be as sensitive. There has to be some not terribly burdensome way of, a, cutting back the security clearances on the Hill, which I totally agree with, and, b, sensitizing those who have them.

Mr. DORNAN. Once a year would be sufficient, Mr. Chairman, if on the initial granting of a security clearance they got this briefing, this 30, 50 minute briefing.

Mr. BEILENSON. The first thing we need to do is get a list of the people. I bet you there aren't 80 staff around here——

Mr. SOLOMON. Will the gentleman yield?

Let me just read an excerpt from the United States security manual; when they passed Resolution 243, the Senate agreed to the resolution. It committed itself to reducing the number of staff holding security clearances and to keeping that number at a minimum thereafter.

Mr. BEILENSON. But the real question is, what, in fact, they did. Did anybody find out how much they reduced it by?

Mr. SOLOMON. No.

Mr. DORNAN. Mr. Chairman, my counsel has just told me the Sergeant at Arms has that list. We do have that list, and as my staffer pointed out, and he has an excellent security background, there are excellent briefings with films that are very, very gripping that tell the espionage story, the sabotage story. They are current and from the people that you deal with every day, that they can give a better briefing than dumping this on two volunteers in Jack Russ' office who may not have the right films or any at all.

Mr. BEILENSON. They are not going to show the Soviet trip film, are they?

Mr. DORNAN. Not that one. It is a little bit of Walker, a little bit of—you know, that sort of thing.

Mr. MOAKLEY. Thank you very much.

Nobody differs with you, Jerry, on these things. It is just how do you get there, you know.

Mr. DORNAN. Could I comment, Mr. Chairman, just on one thing Mr. Hyde said. I am always surprised when I see someone in their first, second, or third term get appointed to the Intelligence Committee, and usually it is with some good reason by both leadership, but the general rule has been that somebody at their youngest entry level, I mean junior entry level is starting their fourth term minimum, and if there is an 8-year limitation, which I support, then that means by the time they leave the committee they are wrapping up their 14th years, so I think that is a good addition to 8, but I think making it permanent might be self-defeating. I am still open minded, though.

But everything I have heard, we both came here 14 years ago together, and if you look back at 1976, even the changes in our own life, college degrees for children, grandchildren and all of that. But history, since 1975, has seen many events from the roof of the embassy in Saigon to the changes in Eastern Europe today. That is a broad stretch of history, 14 years at today's accelerated pace.

So I think 8 years is great, but not enough.

Mr. MOAKLEY. The subcommittee will be recessed, subject to the call of the Chair. It is our intention to go vote and probably be back within 10 minutes.

[A brief recess was taken.]

Mr. MOAKLEY. The Subcommittee on Rules will resume its hearing.

The next witness will be Philip Pease, Director of Security, National Security Agency. He will be accompanied by Inspector Gary Stoops of the FBI.

Gentlemen?

STATEMENT OF PHILIP PEASE, DIRECTOR OF SECURITY, NATIONAL SECURITY AGENCY

Mr. PEASE. Thank you, Mr. Chairman.

What has been stated up to date, I feel somewhat inadequate following the distinguished Members of the House, but——

Mr. MOAKLEY. You are saying the right thing so far.

Mr. PEASE. So far I am okay. I should quit now.

But as a security professional, let me, if I may, address the issue of the creation of an office of security, if I get your thrust insofar as the House of Representatives is concerned. Not an easy task. Because of the open environment that this body exists and must exist in, it would be indeed a very difficult task. But one I think should be undertaken.

I like to believe that—and the focus that has been—that we have heard this afternoon on the security awareness, security education, is indeed crucial. I like to refer to that as a creation of a state of mind, because that is what security is all about.

And I am not one of those who would subscribe to the fact that you call people in and have them sign a piece of paper. That is doing it by rote. They don't learn. They don't understand. You have to have security rules that are believable, coherent. They make sense. They are rational and you got to be able to explain to people, and they have got to be made to understand. Otherwise, it is fool hearty.

I won't sit here and tell you that we have been able to do that at NSA, because I wouldn't be doing my job if I said that. I would suggest to you, though, that security awareness is a repetitive process, and we are fortunate in one respect at NSA where, indeed, we operate in a totally classified environment.

That is not true in this body, and that is what would make this very difficult task, indeed. But the requirement to do so is, I think, is apparent. I am firmly convinced, while, indeed, the Soviet threat politically seems to be diminishing, I would suggest to you that the intelligence threat to the United States of America is not, not from foreign intelligence services, not from what we see.

It is, if anything, any government in my view that doesn't have an intelligence collection capability is not doing themselves a service, and this body is by its nature open, and, therefore, is under attack, and there is no question about that in my mind. And, therefore, you have to be alert to that, and the way you do that is through your personnel, and that is your staffers, and as well as acquainting your membership with the dangers.

But it has got to be a believable message. It has got to be understood and appreciated. And a security organization in my view, even though that is an impediment to progress, and believe me, it is. I hear that, that is a fight I have at NSA, but I have been fortunate in having every director that I have worked for support enthusiastically the requirement for security, but what I firmly believe in is that you have got to have the minds and hearts of the people, and they are convinced that, indeed, security is necessary.

And if you have that, then they are receptive to the rules which they have to go by, which, indeed, are onerous, and particularly to a body like this they would be onerous, because you had been going from a classified environment to an unclassified environment, and it is extremely difficult to achieve that separation, and that is, again, why I think we are very fortunate at NSA, because we operate in a culture that is, indeed, alien to many people, because I mean we have problems, I guess, with—we are unable to talk to our wives, our children, our friends about what we do, and we mean that, and we, indeed, do that.

Unlike if you work in the insurance industry, you can talk about things. We rarely can. And people at NSA sometimes go overboard in that regard and as a result have problems. And that is the kind of an atmosphere that we operate under. It is not the same here and I recognize that. That is what would make this very difficult, but I think it is a task that needs to be undertaken.

Mr. MOAKLEY. What suggestion would you have then on Mr. Solomon's resolution that says that we have to have a secure place to deposit this information?

Mr. PEASE. That, absolutely. I would certainly subscribe to that, much like the House Select Committee on Intelligence, their controls, their documentation. There needs to be a control. There needs to be an audit trail.

Every time you have a problem with an espionage case, the first thing we ask is who had access to what and when, and you need to create the kind of situation where you would be able to recreate access to a particular set of documents that were, indeed, subsequently compromised, so that would take some doing, but there does need to be a regimen of control over classified material, not only in its storage, but, indeed, who has access to it, and, indeed, there are too many people who have clearances.

But what is more crucial than that, in my view, is that you need to control the requirement of those peoples to have access to classified information. Do they really need to have access to classified information?

Mr. MOAKLEY. We will hear from Mr. Stoops.

Do you have a prepared statement?

STATEMENT OF GARY L. STOOPS, INSPECTOR, DEPUTY ASSISTANT DIRECTOR, RECORDS MANAGEMENT DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. STOOPS. No, Mr. Chairman, I don't, but I would concur with what Mr. Pease has said.

He has covered it very adequately. I think that there is a need, as he has stated, for the centralization of your security functions. I think it is in an area that you have and your openness that requires centralization. One of the things, in any security program is that you are going to have rules. Then you have to have teeth in those rules to have enforcement. Some of the faults that we find in the security business is, that there isn't strong enough enforcement of the rules. The key to bringing this point home is to have the policy you need set up and built into the system.

Then you can capitalize on those security violation situations to bring home your point when you are having your security awareness briefings with your personnel. By having and setting up a system to identify and account for your classified documents, you are able then to determine where your weaknesses are.

If you are having certain security breakdowns, those are the areas you need to be focusing on instead of harping on the same general things all the time. You can be maximizing those briefings to the utmost advantage, because the key is, as Mr. Pease has said, you have to continually go through with your security education awareness training, and that starts from the top on down in any organization.

Mr. MOAKLEY. How often do you have your security awareness briefing with your staff people?

Mr. STOOPS. We have it on an annual basis.

Mr. MOAKLEY. Annual.

Mr. STOOPS. We are just switching to semi-annual.

Mr. MOAKLEY. And what do they have to do to be briefed properly?

Mr. STOOPS. Well, we go through—go all through the responsibilities they have for safeguarding classified information.

Mr. MOAKLEY. Is this in a classroom type setting?

Mr. STOOPS. Yes. Usually in a conference type of setting.

Mr. MOAKLEY. So it is not an individual just secreting himself with a book with rules and regulations?

Mr. STOOPS. No, no. Different people will come in and talk about the threat, as well as going through their individual responsibilities they have for safeguarding classified information, we try to bring personal experiences and problems to the forefront to illustrate how we can let our guard down in this area. We are all human, and it can happen, and only through sensitizing, through the education and security awareness process are you able to accomplish that.

Mr. MOAKLEY. Mr. Pease, what about your staffing?

Mr. PEASE. Yes. I have seven divisions, Mr. Chairman, one of which is devoted exclusively to security awareness, and this is when we indoctrinate people when they first come onboard, and, indeed, it is somebody who doesn't even know how to spell "classifi-

cation" in some cases that we have to begin an education process to familiarize that individual, and it is a continuing.

We have a program, a media program, as well as speakers that we bring in from within the agency, as well as from outside, and we run that every other month where we have guest speakers or we will have a specific video presentation. We can't get everybody, but it is on a repetitive basis.

In addition to that, we have got professional security officers who are out of my office assigned to every major organization in the agency, and that is one of their responsibilities.

To localize the security problems which are unique to that particular organization, wherein they can come and address the security issues that will need to be explained perhaps, or to be otherwise more familiar to the people who are in residents, and so that what I am trying to suggest is it is a continuing process. It never ends and it never should.

Mr. MOAKLEY. Is there any period of time that it is mandatory that each person be briefed, each staff person?

Mr. PEASE. There is a requirement that within the intelligence community that an individual should be rebriefed every year.

Mr. MOAKLEY. That is what I mean.

Mr. PEASE. When I first got into this business, it was the military concept that the troops that were cleared would be marched in and have to sign an oath. Well, that didn't do any good whatsoever, because it was just another duty as assigned. And I would have rather spent the time getting perhaps a key group of them and having a 15 minute interaction with them to see what was bothering them, what their problems were.

So we set up a program where, indeed, that we try to do that and reach as many people as possible.

Mr. MOAKLEY. But every staff person, at least once a year, is debriefed?

Mr. PEASE. Or briefed.

Mr. MOAKLEY. In a classroom type setting, again?

Mr. PEASE. It will vary. It will vary, but normally it is a classroom auditorium-type setting.

Mr. MOAKLEY. But I mean it is not a one-on-one. It is instructive with a group.

Mr. PEASE. No, it couldn't be, too many people. But we debrief, or at the termination of employment for our contractors as well as our staff employees, we actually go through a formal debriefing procedures, where we indoctrinate them to their responsibilities.

Mr. MOAKLEY. I just don't put any stock in giving someone a book and then making sure that they are reading and then sign a form. I have got a book that I read the first two chapters and never went any further. Why shouldn't anybody else be any different.

Mr. Beilenson?

Mr. BEILENSON. How many people can you handle at a time? I mean, can you stick them in an auditorium? If you are trying to do an annual briefing, does it have to be a small group or could you sensitize a large group? I am exploring this manpower issue. It shouldn't be worrisome. We could do it if we just had a few hundred people around here——

Mr. PEASE. It depends upon the level of experience that the person has, how long they have been exposed in the classified materials.

What I was referring to, sir, is the experience factor of the person to be briefed. If, indeed, it is, if it is a college graduate that has been in the business 2 or 3 years, they need to be contacted more frequently than somebody who has been in it 25 years.

Mr. BEILENSON. I assume it is the former more often around here. I don't know. I have no idea who these people are. I mean, 1,185 people. It is ridiculous.

May I ask this? As I walked in I thought you were saying there was somebody that said that what had been proposed might not work for us?

Mr. PEASE. No.

What I was referring to that the environment of the House of Representatives and the Senate is an open body and that is not a security environment from a security standpoint.

Mr. MOAKLEY. I think he was talking about Solomon's proposal. He just thought it would be very, very difficult to put it into being.

Mr. BEILENSON. Jerry was only proposing a list of these guys. I get you mixed up with Mr. Dornan's proposal, but he wasn't asking an awful lot as I recall.

Mr. SOLOMON. They testified on behalf of my legislation. They support the concept.

Mr. BEILENSON. Why can't we write this so that everybody is happy with it and it will work.

Mr. MOAKLEY. That is what I would like. I would like you to look at Mr. Solomon's proposal and Mr. Dornan's proposal and write something which should work in the open society we live in up here. I mean we have to give sunshine and open windows and the lights have got to be on. How do you propose we could put that into being.

Mr. BEILENSON. May I take a minute.

First, the Committee on Intelligence doesn't necessarily have to do that. We could contract out, ask these guys, or use our contacts with other appropriate committees preparing classified information security manuals.

Maybe you don't even have to do that, because no one is ever going to read a manual, but you could give a person 10 points to review; you guys know a lot about this, I don't. But you could do an abbreviated kind of manual, or we could give them something which already exists somewhere or change it to make it appropriate to the House.

So it may not be a big deal, and as I said: the Intelligence Committee doesn't necessarily have to do it, but we could arrange to have it done.

In accordance with it, assist Members, officers and employees of the House and provide for the transmission, storage and disposal of classified information. That is not a big problem. We take care of our own up there, God knows what happens to the rest of it around here. I hope we don't have to create large additional amounts of space, but we could certainly have secure spaces in a couple of places and require people to sign information out, whatever, and assist appropriate departments and agencies of the executive

branch in processing House requests for access to classified information.

That is fine. I don't know how big a problem that is. Hopefully, they will only give to those who they trust the stuff that they are worried about. I don't know what they have to give to some of the other committees. I would hope that they would only give it to the committees that have to know about these things.

Again, I am perfectly comfortable with our own situation upstairs because I know we are careful about it, but I have no idea in the world what the problem is outside that, and we need to find out the parameters of the problem and then we could perhaps figure out the solution.

Finally, maintain centralized records identifying those officers and employees of the House who have access to classified information. That is real easy, but we should go beyond that and have a signing in and out of terribly sensitive stuff, which maybe we could do if we have a place.

Mr. SOLOMON. If the gentleman will yield at that point.

The Director of the Central Intelligence Agency has indicated he will send a letter in strong support of this concept. In other words, that will give us the same kind——

Mr. BEILENSON. That is no problem. We just got to figure out a way to make it work.

Mr. STOOPS. If I might add, on the Senate side, I remember when they drew their manual up, we reviewed it and gave comments on it. I think it was circulated within the intelligence community for comment.

Mr. BEILENSON. Do you think it is useful, I mean, their manual. Just change the word "Senate" to "House."

Mr. STOOPS. I was going to suggest that it be reviewed and used where applicable.

Mr. SOLOMON. Here it is. It is not that complicated.

Mr. BEILFNSON. It is not, but in here you have got 20 pages of small type, and it is better to get them in once a year and read it to them, and let them ask a few questions than just to give it to them and ask them to read it, or you can maybe rewrite it. It is the kind of thing when you look at it, you start reading it and it is difficult and there is too much print on each page.

There are some basic things you need to tell people and sensitize them to, and you could also hand them this, but there must be a way——

Mr. SOLOMON. Which talks about, calls their attention to something, which is what you were talking about.

Mr. PEASE. Precisely, and to have somebody sit down and to have them read that document, it is not going to work.

Mr. BEILENSON. That is a lot smaller than Mr. Dornan's.

Mr. PEASE. That is right. It is not very exciting or romantic to read a security manual.

Mr. BEILENSON. They may not even understand it all that well if some one doesn't talk about it with them.

Mr. PEASE. And explain the rationale as to why you are requiring certain things to be done, and that is how you gain an understanding on the part of the people, the ones that you are trusting, and it is the people that you trust who are going to inadvertently

make a mistake and leave a classified document on the floor of the House, for example, or something like that, and that is what you want to avoid.

Mr. SOLOMON. A perfect example of this, Mr. Chairman, is when the Ethics Committee came out with all of their new rules and regulations on the new law we enacted for ourselves; you can read that and the average Member doesn't understand half of what is in there. But when we had briefings, in other words, and we could ask questions, we knew exactly what was in that new law—the same thing would hold true here.

Mr. PEASE. Precisely.

Mr. MOAKLEY. Mr. Solomon?

Mr. SOLOMON. I just want to thank you for supporting the concept.

Mr. PEASE. And I would be glad to offer our services.

Mr. SOLOMON. I would like to ask just a couple of questions.

Mr. MOAKLEY. Before you do, I would like to reemphasize that we would like you to take a look, if you could just give us some kind of proposal you think might work in this kind of a society.

Mr. SOLOMON. Just to bring out the problem that does exist here, for example, Mr. Pease, how would you rate the technology—technological means, in other words, that espionage agents may have brought to bear here on Capitol Hill? And for you, how would you—what kind of quality is there out there right now involving the foreign agents who are operating here on this Hill?

I understand that the FBI doesn't follow a foreign agent onto Capitol Hill because they don't want to, in sensitivity to Members, make it seem that the Members are under surveillance of any kind. I think you ought to follow these agents on the Hill, but being that you don't, and if you don't, what kind of technology is out there?

If I am sitting in my office right now and I am having a briefing, a classified briefing by the CIA, what kind of technology is out there to prevent or to help these agents pick up this kind of information? Explain to us.

Mr. PEASE. From a technical, if I understand the question correctly, I think I would be getting into the area of classification that I would like to avoid, but let me tell you that there is technology that is available to do what you are suggesting.

But I think of the greater importance is the individual, the person, the exploitability of the person, and, indeed, that is the method of operation and of the foreign intelligence services that are going after the person. And it has been the tradition in the past decade that they are going after the person, either the volunteer is coming to them or they are going to exploit the person who already is in access.

And that is what we have to worry about, and that is another part of the security awareness, where you create the environment wherein the person who, indeed, is approached or is, indeed, compromised before he or she gets too deeply, that person is found out, or is willing to turn themselves in and ask for help, and that is how a good security organization can prevent a tragedy from occurring.

Mr. SOLOMON. Very good.

Mr. MOAKLEY. Gentlemen, thank you very much, and thank you for being so patient and waiting the whole day, but you know how long winded Members of Congress are.

Thank you and I look forward to your statements on Mr. Solomon's and Mr. Dornan's proposals.

Thank you very much.

Mr. SOLOMON. Thanks again.

[Statement submitted on behalf of Mr. Philip Pease, National Security Agency, follows:]

NATIONAL SECURITY AGENCY,
LEGISLATIVE AFFAIRS,
July 23, 1990.

To: Mr. Matt Pinkus, Staff Director, Rules Subcommittee on Rules of the House, 1628 Longworth House Office Building, Washington, DC
Subject: NSA Comments on House Resolutions 105 and 46.

Per Congressman Moakley's request at the 27 June 1990 hearing of the House Rules Committee, Mr. Phil Pease, Chief of NSA's Office of Security has provided the following comments on House Resolution 105 ". . . to establish a Classified Information Security Office" and House Resolution 46 ". . . to require that any House employee who has a security clearance receive semiannual security briefings."

As NSA Chief of Security, I fully support House Resolution 105 and its call for establishment of a Classified Information Security Office as well as development of a House security manual. However, I would suggest that a more universal approach—one which encompasses Personnel, Physical, and Information Security disciplines, may be more effective in promoting long term protection for classified or sensitive assets.

I also support House Resolution 46 as a positive step in the pursuit of protection of sensitive U.S. Government assets. The success of any security program is contingent upon the extent to which affected personnel are convinced that controls and procedures are coherent and worthwhile. Security education is the cornerstone of any effective security orientation.

I recommend that implementation of both resolutions be expanded to include all components of a sound security program and not focus exclusively on procedures or briefings relative to the handling of classified information. Operating in a Congressional setting characterized by constant shifts between classified and unclassified environments will make this a difficult task, but one which should be undertaken. The NSA Office of Security is available to answer questions relative to the Agency's overall programs, policies and procedures.

We hope you find this information useful and are successful in your endeavors to enhance the security posture of the House. If you need any additional information or assistance, please call the NSA Legislative Affairs Office on (301) 688-7246.

CARYL LYNN GREEN,
Legislative Staff Officer.

Mr. MOAKLEY. The subcommittee will be very happy to hear from Bruce Fein, an attorney and consultant on national security affairs.

STATEMENT OF BRUCE FEIN, ATTORNEY AND CONSULTANT ON NATIONAL SECURITY AFFAIRS

Mr. FEIN. Thank you, Mr. Chairman, and members of the subcommittee. I would like to address in seriatim a series of proposals that largely track Congressman Hyde's recommendation, but have some deviation.

Let me begin with the joint intelligence committee, and largely respond perhaps to some of the criticisms and underscore what I think would be some of the benefits to be obtained.

What I would propose is a joint intelligence committee of a membership of maybe 12, equally split between Democrats and Republicans.

Now, why is it that I think that the numbers ought to be dramatically slashed and why I think that human nature would teach that the result would be an improvement, rather than a reduced, oversight performance?

Numbers all, experience teaches us, as they rise, dramatically increase the risk of leaks. It is simply a greater incentive to leak, because you are less likely to be detected. And aside from that, we just know that when one is in a very large group, there is a tendency to be less serious about maintaining confidentiality than otherwise.

It has nothing to do, I don't think, with the character of individuals, but it has everything to do with the way in which human beings react to particular information. For instance, when I was research director on the House Iran Contra Committee, the only time there wasn't any leak of pre-broadcast testimony of some flamboyant sort was when there was restrictions to just a hand full who were exposed to the pre-broadcast testimony of Mr. Poindexter. The other witnesses, there were many who were involved, the leaks spray. So I think that just as a matter of logic and mathematics, the fewer the members on the committee, the very less likelihood a leak.

It is also true it seems to me that the fewer members, the better the oversight. And why is that? If I wanted to try to evade my responsibility, I would say let's have all of Congress be responsible for overseeing Mr. Fein's duty here. But human nature makes people perform with excellence if they will get some credit for doing good, and if they fail, they will get some criticisms.

Well, when you have 19 members, 35 members, 50 staff, 60 staff, it is very difficult to pin responsibility on someone for performing the oversight. And it can be said, well, with numbers you can parcel out one aspect of covert action that is in the southern hemisphere will be assigned to this member on the committee, and then another aspect of collection of arm's control information in Asia goes to that member.

Well, that is simply not how human beings work in this life. If someone knows, I get the credit and I get the personal rewards of knowing the responsibilities on my shoulders to perform, then they do their homework, then they do compared, and then they do have that expertise needed to perform the oversight role. And the oversight role I submit is more than simply preventing any disasters from happening. It may well be that with the current situation, you don't need to be exceptionally tutored in the intelligence community, in the arts, in order to detect something that is so off the base that ought to be stopped.

But that, I suggest, is a minor function of oversight. We need all of our best brains in this area to propose constructive improvements on what the executive branch intelligence committee is proposing.

One of the advantages of separation of powers is that you can bring institutional vision with different incentives to the same problem, but it only works if the expertise and the vigor in which the proposals are made are equivalent.

At present, it is my perception that the Intelligence Committees do lack that great professionalism that comes from a long standing

acquaintance with the problem, and a sense of responsibility that is up to me to make an improvement, that makes the executive branch legislative interchange an exceptionally productive enterprise, not just to say, well, you went off the boat there, or that is a crazy, covert operation, but this is what you ought to be doing and this is how you can do it better.

That language of separation of powers lapses when you have such large committees or diffusion of responsibility that no one really has the incentive to say "I'm going to spend those extra hours tonight reading and thinking about this intelligence problem rather than doing something that produces pork-barrel back home or raise money with the political action committee."

This is not a criticism of anyone who is on the committee. We just know human beings act that way. If you want an assignment that is done poorly, give it to a collective of five. If you want it done right, give it to one person. You come up and do it. If it is splendid, you get the credit, but if it is bad, we know where that responsibility lies.

That was one of the reasons, for instance, why in the Constitutional Convention the Founding Fathers voted for a single rather than a plural executive, because the idea was, well, that person has got to be vigilant because he knows the responsibility lies on his shoulders if something goes wrong.

That is not true with regard to a diffused responsibility. It is said that with a joint Intelligence Committee, perhaps you lose the independent perspective that the Senate brings to bear on the issue as opposed to the House. Well, on matters of national security, I think there cannot be any great distinction between how we go about trying to keep secrets, how we go about trying to defend the national security.

And it seems to me it is no different than having a joint committee performing this function than, say, the conference committees that frequently are utilized by the House and the Senate in trying to thrash out some compromise between the various bills. Sometimes the Senator is aligned with House Members and vice versa. There isn't any distinct House vision of the intelligence community and intelligence function as opposed to the Senate function.

There is also some worry, I think that has been expressed well, how could you have a quorum? The Senate may have their duties and the House Members have their duties, and it is hard to coordinate those in order to call the committee even to do its work at all.

Yes, there is some claim to that, but it seems to me that if any Member who is worthy to sit on the committee should surely be able to plan his day and to subordinate these alternatives or distractions, in order to perform the exceptionally important mission of intelligence oversight.

That brings me to the second point about terms on the committee. I don't think there ought to be any limit on the term. Precisely because I think that we lack the kind of long-standing expertise and devotion to mastering the intelligence community, that enables legislative-executive branch relationships to prosper, not just to head off disasters.

I mean, I have to underscore, an intelligence community isn't worth its salt if all it is able to show is that it hasn't committed

any fiascos. Well, so what? That shouldn't earn new laurels. It may get you a "C" grade, but not an "A" grade.

You talk about the incentives again. If someone knows they are going to be off the committee in 6 years, 8 years time, all that expertise, all those hours that they would put in, it loses its worth. People become experts if they know that they can continue to utilize their expertise over a long time, and I think it is an enormous disincentive to do the homework needed to acquire expertise when you put an artificial limit on how many years one can serve on the Intelligence Committee.

Now it is said, but isn't there a worry that they will be co-opted by the intelligence community? I don't believe that a whit. You have already pointed out, Mr. Beilenson, that many of the issues of the Intelligence Committee are policy issues.

Congress' views of policy from a foreign affairs or intelligence angle differ from the executive branch because the roles are different. A legislative role, oversight role is different from an executive branch role, and I think that the Members of the committee on matters of such concern are every bit as able to keep a distance from the executive branch, not be co-opted to exercise their independent judgment, something that they are able to do when they have that independent expertise and aren't relying upon all the thousands of acronyms that may hit them as a novice, in which they can't understand at all.

Now let's go to the oath of secrecy. Well, it is said, I will take an oath of secrecy when the executive branch takes an oath of secrecy. Well, on the one hand, I am not necessarily averse to having Congress enact a law that would say everyone in the executive branch takes an oath of secrecy as well.

We are dealing with matters of national security, and the rule of parity seems to me ought to apply. And if what is required for the House Members to submit to oath are that others in the executive branch do, well, fine, because I agree, it seems to me the argument is equally strong. Mainly it conveys a sense of solemnity with regard to the task, and we have already understood, even by the most recent speakers, that oftentimes it is an aura, it is an alertness to what one is doing that is so important in protecting secrets, and certainly an oath that is focused especially on secrecy would reinforce that idea.

I mean, the oath could be given of course each time that there was a briefing session, annually or semiannually. But moreover, it creates a perception that is so important with regard to foreign intelligence services, foreign intelligence agencies, indeed, even the CIA.

This is a responsible agency. Persons and people who we have to share intelligence with abroad, and obtain intelligence, they have to operate on perceptions. They don't understand necessarily separation of powers.

When our CIA can say, "Yes, every Member in our Congress who gets access to this, they've got an oath of secrecy," that means something to those people abroad. And that ought not to be underrated, because they don't understand necessarily the nuances to say, well, when the Members are sworn and they take an oath to

support the Constitution, that sort of thing, and the burden is so modest that it seems to me not a proper justification to exist.

I would also recommend that a violation of this oath of secrecy with regard to confidential information be made a Federal crime. Why should it not be made a Federal crime? You are releasing information that is classified.

If it is thought to be improperly classified, there is even the Freedom of Information Act, which enables anyone to get judicial review of a classification decision. If it is improperly classified, there can be a formal vote of the committee, or of Congress, to release the information.

Why shouldn't it be a crime to release that kind of confidential information, when the damage is so potentially great?

Now, it is true, Mr. Beilenson, you have stated that oftentimes the classified information you have access to isn't all that serious. But we are not dealing here simply with the seriousness of the particular information at that time. It is the threat that it creates to our coordinating relationship with other intelligence agencies when a leak occurs.

It is the threat that is created with regard to recruiting any new agents. They don't want to risk the fact that, well, most of the information that is leaked really isn't intelligence sources and methods; it is other kinds of things. People's lives are at stake. They don't want any risk that can be avoided.

I see no reason why there ought not to be a uniform crime applicable, whether you are in the executive or in the legislative branch, that when you improperly disclose classified information, that is a crime, when that is intended to be done. There are thousands of alternative ways which you can so-called blow the whistle on what you consider misconduct that doesn't require leaking classified information.

And I would also, therefore, recommend that the independent counsel be given the jurisdiction to examine any plausible crime that classified information has been improperly leaked.

Why not? The independent counsel doesn't bear any particular loyalty on behalf of the executive branch, so that you get the idea, well, this would be a threat that the executive branch could wield over to the legislative branch. He is an independent counsel. He is appointed by a three-member judge.

You have had experience with regard to the Iran-Contra events with the independent counsel, and it seems to me that while that independent counsel is pursuing allegations that satisfy the hurdles under the Independent Counsel Act, otherwise known as the Ethics in Government Act, then that person ought to be denied access to classified information in that interim.

I see furthermore no reason why a Member who is found guilty of violating the secrecy oath won't be permanently barred from Government employment. There is no—it seems to me that someone who has that sense of irresponsibility towards the national security of the United States is not worthy of employment in obtaining taxpayer funds. They can find employment elsewhere.

Again, I would hope and would expect that penalties would be very infrequent. The staff up here is very responsible, but we are dealing here substantially with symbols, and again, we have to, be-

cause we aren't simply working in an intelligence community just in the United States.

We need to be able to tell intelligence communities abroad and other potential assets, these are the standards that we have for our own people.

I see nothing wrong with an automatic expulsion of a committee member who is found guilty of violating his oath of secrecy by the independent counsel. It seems to me preposterous that someone would be permitted to sit on a committee after an independent counsel has found the violation under the law, according to the standards of evidence that apply in other criminal cases.

And furthermore, I would recommend that there be an automatic expulsion vote that is permitted under the House rules for someone who has violated his oath of secrecy. I cannot underscore enough how many other alternative ways Congress has to bring to bear what they know or believe is wrongdoing, other than violating oaths of secrecy, and it seems so irresponsible that Congress would be remiss in not voting to impose this particular sanction.

It takes a two-thirds vote under the Constitution, and so it's not something that is done for light and transient causes, but it underscores, I think, the seriousness which the country needs to deal with matters of this sort.

And I think that even when the Soviet threat is receding, that doesn't necessarily mean that there is a concomitant reduction in need for protecting our intelligence sources and methods, and other aspects of the intelligence world.

There may be an increase in industrial espionage, that is something that has been by experts in the field because many of the East European countries, including the Soviet Union need but cannot necessarily afford, to buy technology, and they would gain advantages by industrial espionage, and it's a threat saver.

Moreover, at the time that the Soviet threat is receding, we find more threats to things like missle proliferation; Colonel Qudhafi having access to maybe how to build his own chemical weapons plants.

There will be all sorts of additional kinds of security and classified information problems that may—that will not be of the momentous magnitude of the cold war era, but still are very, very important to keeping the safety and security of the free world.

I would also recommend that there be security clearances granted by all Members with access to classified information, initially run by the FBI, and then reviewed by the committee who could overturn an FBI decision.

Now, it's said this violates separation of powers, but I don't think that is accurate. Separation of powers doesn't demand dramatic seals between the branches. Indeed, frequently separation of powers is compromised voluntarily by the branches which an important issue is at stake, and I can underscore how many times that was done during the Iran-Contra investigation.

We had President Reagan who opened his diaries to the committee. He opened all sorts of confidential information to the committee. He waived executive privileges a thousand times over. We sat there, and the world sat and heard what went on in the cloister of the National Security Council in determining whether or not it was

a good idea to try to deal with Iran in obtaining our hostages, and President Reagan did that.

Why? He said, yes, I am not going to stand on separation of powers here. The issue is too important for that. There is a need for a sense of confidence that all, all that is being done to reveal the facts is being done.

And the Iran-Contra Committee case is just one instance. The President routinely waives executive privilege on matters with regard to other committees, whether it be an instance where the nominee's background is at stake or otherwise.

And it seems to me nothing is inconsistent with separation of powers, for Congress voluntarily to say, we know the FBI has got the experience and the expertise in this area. We know that they come to bear without any special prejudice about denying someone a security clearance, and to utilize an existing system that is already there, subject to the congressional power to overturn an adverse decision by the Bureau that says this person doesn't pass muster, it seems to me in the best and highest standards of the cooperation that is an ingredient of separation of powers.

Last, I would recommend that as an operating rule, that there be a need-to-know standard utilized on the distribution of classified information. It's routinely utilized in the executive branch, and I think there isn't quite that sharp categorization in the utilization of the staff who has access to classified information that ought to be ingrained in the way in which this committee and Congress deals with the very grave consequences about the possibility of compromising classified material.

Again, a need-to-know standard, that is an operating rule, it's a day-to-day reminder, again, that our security experts tell us is so important to the psychology of the individual to prevent inadvertent disclosures, sloppiness of operations, and if that is the foremost rule that everyone on a day-to-day basis, whenever they are thinking about does *X* get access to this information, the need-to-know standard reason forces that.

Mr. BEILENSON. Let me just interrupt you at this point.

Of course, we have that on our committees. Of course members of our Intelligence Committee staff who don't have to need to know about certain things do not sit in on certain activities, do not deal with covert actions. A tiny number of staff have access to that.

So we are pretty careful about that, and so is the Senate Intelligence Committee.

Mr. FEIN. If it's made part of the operating rule.

Mr. BEILENSON. Of course, it is.

Mr. FEIN. As a practice, itself, but House Rule 48 says we have access to a need-to-know basis, I think this staff runs a professional staff.

Mr. BEILENSON. Of course it is.

Mr. FEIN. These are the experts we got on the staff here who basically are, I think, as you pointed out, Congressman, are far more professional than on the Senate side.

The last thing that I would say in evaluating the proposal for reform, and it's something that former Chairman Hamilton underscored——

Mr. MOAKLEY. You may continue.

Mr. FEIN. The rules shouldn't be passed simply because the problems that have occurred in the past seem to have abated because of exceptionally good relations between Judge Webster at the CIA and Chairman Beilenson or something of that sort.

I mean, Congressman Hamilton put it just right. You have got to—you have to have the rules work for the period when there isn't going to be necessarily harmony. You have got to have the rules work when there will be some occasion or situation where someone may have a temptation to go off the deep end.

Mr. BEILENSON. I quite agree with that. I am not really sure how that applies to those proposals, but in any case, whether or not we have——

Mr. FEIN. Let me give you an example, I think, Congressman Beilenson.

Mr. BEILENSON. We've got to get out of here in about a minute.

Mr. FEIN. One example would be how forthright the CIA is with regard to sharing information with the committee, and a lot of things that may seem to be symbolic and superfluous at a time when you have got great relations with Judge Webster and would seem to be not important might be very important.

Mr. BEILENSON. I understand the point you are making, but I do not see how it applies to any of these particular matters that we are discussing today.

Obviously it's better if we have a decent relationship. Obviously it's worse if we don't. But I don't believe that any of the proposals today have an awful lot to do with ensuring a proper relationship.

Mr. FEIN. We may just disagree on that. I would think perhaps the secrecy either would be pertinent to that issue.

Mr. BEILENSON. No. It's in and of itself good; it's necessary for us to take care of our security and be sensitive to it. But it doesn't have a damn thing to do with the relationships between the Intelligence Committee and the community.

Mr. FEIN. Insofar as the community thinks it has more confidence in your ability to keep secrets, I think it has at least some pertinence, and they share more if they think their secrets will be kept.

Mr. BEILENSON. They trust us if over a period of time, as in fact has occurred, they have learned to rely upon us and to know that we are supportive and protective and helpful to them as much as we can be while asserting our own independent point of view and looking out for taxpayers and whatever else, at the same time they have been very careful about keeping secrets.

And I think they feel that way very strongly. We have had a lot of experience with us. They don't hesitate for a moment to come over and talk to us. I am not arguing against the security oath, but, you know, and I don't know if Mr. Casey, a few years ago would have been any happier to come over here and talk to us whether we swore him every day.

He basically didn't believe in sharing information with Congress, period. He didn't care what the law was. He didn't care if he took security oaths or not.

That was our problem with him. Nothing we could have done——

Mr. FEIN. It's not a panacea. As they say, we are working with the margins here.

Mr. SOLOMON. I have had many conversations with Bill Casey. He was a New Yorker, and he was a good friend of mine. He was so concerned about the leaks in the Congress and leaks from the staff, and he had very good reason to be, which is why we are holding these hearings here.

So I agree with you 100 percent.

Mr. BEILENSON. But even if we had done all these things, it wouldn't have changed Casey's mind one damn bit. He still wouldn't have come over and talked to us.

Mr. FEIN. I think Congress got it right. The underlying, if you have got good confidence there, the rules basically are superfluous. But as I say, the rules, all kinds of rules work at the margins because if the relationship is right, then we don't have a problem.

And as a congressman said, we won't have it here.

[Mr. Fein's prepared statement follows:]

STATEMENT OF BRUCE FEIN
BEFORE THE COMMITTEE ON RULES

June 27, 1990

Mr. Chairman and Members of the Committee:

I am grateful for the opportunity to testify on reforms to House Rule 48 governing the Permanent Select Committee on Intelligence (HSPCI).

Enlightened reform requires obedience to human nature and experience. That is the lesson of the United States Constitution. It seems to me that the two salient defects in HPSCI are insouciance with classified information and insufficient constructive advice to improve the intelligence community.

These twin defects suggest the following reforms:

-- First, the establishment of a Joint Intelligence Committee with a membership of approximately 12, split equally between Democrats and Republicans. At present, the combined memberships of the House and Senate Intelligence Committees is 34, a figure much too high to safeguard against leaks and to impress upon the memberships the exceptional importance of their mission.

Numbers reduce the sense of responsibility esential to constructive behavior. Large numbers on the intelligence committees reduce the likelihood of detecting wrongful disclosures, and the incentive to

master an understanding of the intelligence community because a lackadaisical or uninformed oversight performance is easily buried amidst many other Members. The consequences are manifold and insidious: leaks of classified information are routine; foreign governments and agents are less willing to share critical intelligence information with the United States; intelligence assets are more difficult to recruit; the intelligence community is less candid with Congress; and HPSCI and SSCI become fora to bewail any intelligence failure without offering constructive proposals for reform.

-- Second, membership on the Joint Committee should be without any limitation on terms. Long experience and lucubrations are essential to comprehending the history, work and needs of the intelligence community and are indispensable to an informed oversight role. Placing an artificial time limit on Committee service fosters too much dangerous ignorance in evaluating the performance of the intelligene community.

-- Third, Joint Committee members and staff should subscribe to a formal oath of secrecy, pledging to maintain the confidentiality of any classified information unless disclosure is formally approved by the Committee or Congress. The oath would convey a proper solemnity regarding classified information, and would inspire confidence in foreign governments and the intelligence community that the Committee was not an intelligence rogue.

-- Fourth, a violation of the oath should be made a federal crime within the jurisdiction of the independent counsel. The prospect that a leak of classified information may result in imprisonment should concentrate the mind wonderfully. Any persons under investigation by the independent counsel would be denied access to classified information until the inquiry concluded.

-- Fifth, a staff member guilty of violating his/her secrecy oath would be permanently barred from government employment. A Committee member who flouts his oath of secrecy would be automatically expelled from the Committee and subject to an automatic expulsion vote by the proper legislative branch.

-- Sixth, no member or staff employee should be granted access to classified information without a security clearance granted by the FBI. A denial of clearance could be overriden only by an affirmative vote by either the House or Senate.

-- Seventh, a "need to know" standard should govern distribution of classified information within the Committee.

This euphonious ensemble of proposed reforms seems to me the minimum necessary to graduate HPSCI and SSI from elementary school to professional oversight of the intelligence operations of the Executive Branch. Anything less would be sound and fury signifying nothing, and keep the United States on

the lower rungs of the world intelligence community roster.

The intelligence community contribution to national security is too important to permit debasement by partisan politics, personal ambitions or a bloated sense of amour propre.

Mr. MOAKLEY. Well, Mr. Fein, we have got to get down and vote. I thank you very much for your testimony.

And this will probably not be the final phase of our hearings, and we may call upon you at some future date to testify before us again.

Mr. SOLOMON. Mr. Chairman, if I might ask unanimous consent that Mr. Fein be able to submit further written remarks.

Mr. MOAKLEY. Absolutely. Without objection.

Mr. SOLOMON. Including the letter to me in support of my legislation, I would like to submit that for the record when I receive it later.

Mr. FEIN. I will let Mr. Beilenson store anything he doesn't want.

Mr. MOAKLEY. Thank you.

The subcommittee is adjourned.

Thank you very much.

[Whereupon, at 5:50 p.m., the subcommittee was adjourned.]

35-641 (128)